

JUDITH A. FITZGERALD
UNITED STATES vs STATE OF GEORGIA

August 16, 2022

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA,) CIVIL ACTION
5 Plaintiff,) NO. 1:16-cv-03088-ELR
6 vs.)
7 STATE OF GEORGIA,)
8 Defendants.)
9 - - - - -)

10
11 VIDEOTAPE DEPOSITION OF

12 JUDITH ANN FITZGERALD

13
14 Tuesday, August 16, 2022, 9:08 a.m., EST

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17
18
19
20 HELD AT:

21 Robbins Alloy Belinfante Littlefield LLC
22 500 14th Street, N.W.
23 Atlanta, Georgia 30318

24
25 WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

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3

1 ALSO PRESENT:

2 MONICA PATEL, ESQUIRE (DBHDD)

3

4

5 ALSO PRESENT:

6 VIA ZOOM:

7

8 For U.S. Attorney's Office:

9 PATRICK HOLKINS, ESQUIRE

10 SANDRA LEVERT, ESQUIRE

11 LAURA CASSIDY TAYLOE, ESQUIRE

12 ANDREA HAMILTON, ESQUIRE

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15 For State of Georgia:

16 DANIELLE HERNANDEZ, ESQUIRE

17 MELANIE JOHNSON, ESQUIRE

18 ANNA EDMONDSON, ESQUIRE

19

20

21 ALSO PRESENT:

22 BRANDON BRANTLEY, VIDEOGRAPHER

23

24

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1 THE VIDEOGRAPHER: This will be the video
2 deposition of Commissioner Judy Fitzgerald,
3 being taken in the matter of United States of
4 America versus the State of Georgia.

5 Today's date is August 16th, 2022.

6 The time on the record is 9:08 a.m.

7 My name is Brandon Brantley. I'm the
8 videographer. Wanda Robinson is the court
9 reporter.

10 Counsel, please introduce yourselves for
11 the record, after which the court reporter will
12 swear in the witness.

13 MS. COHEN: Morning.

14 Frances Cohen for the United States.

15 MS. TUCKER: Michelle Tucker for the
16 United States.

17 MS. HUGHES: Aileen Bell Hughes for the
18 United States.

19 MS. GARDNER: Kelly Gardner Womack for the
20 United States.

21 MR. BELINFANTE: Josh Belinfante for the
22 State of Georgia.

23 - - - - -

24 JUDITH A. FITZGERALD,
25 being duly sworn, was examined and testified as

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1 follows:

2 - - - - -

3 EXAMINATION

4 BY MS. COHEN:

5 Q Commissioner, could you state your full
6 name for the record, please.

7 A Judith Ann Fitzgerald.

8 Q And, Commissioner, thank you for coming in
9 today. My name is Fran Cohen. I represent the
10 United States.

11 This is your deposition in the lawsuit
12 entitled United States versus Georgia.

13 MS. COHEN: The stipulations that we've
14 had, Josh, are all objections except as to form
15 and motions to strike are reserved until time
16 of trial, and we will waive notarization and
17 the transcript may be signed under penalty of
18 perjury within 30 days of receipt.

19 THE VIDEOGRAPHER: Five seconds, Frances.

20 MS. COHEN: Sure.

21 (Pause.)

22 MR. BELINFANTE: That's agreeable.

23 BY MS. COHEN:

24 Q Commissioner, what is your current job
25 title in full?

9

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1 A I am the Commissioner of the Georgia
2 Department of Behavioral Health and Developmental
3 Disabilities.

4 Q And do you -- are you represented by
5 counsel here today?

6 A Yes.

7 Q And that's Mr. Belinfante?

8 A Yes.

9 Q And have you had your deposition taken
10 before?

11 A No.

12 Q This is your first deposition?

13 A Oh, ever? You mean in my role as
14 Commissioner?

15 Q Yes. In any role.

16 A Yes. I've had one prior deposition.

17 Q What kind of case was that?

18 A It was our deaf services lawsuit.

19 Q So that was right here in Atlanta as well?

20 A Yes.

21 Q Well, let me just go over some simple
22 rules --

23 A Thank you.

24 Q -- that I'd like to follow.

25 First of all, if you don't understand

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1 something, let me know and I will consider how to
2 rephrase the question.

3 A Okay.

4 Q The court reporter can't take down nods of
5 the head or shakes of the head, so we both have to
6 confine ourselves to verbal answers. Understood?

7 A Yes.

8 Q And you can take a break any time on
9 request, except that I'll ask you not to take a
10 break while there's a question pending.

11 A Okay.

12 Q You'll hear your counsel, Mr. Belinfante,
13 note his objections to a question. Unless I
14 withdraw the question, you will answer it unless Mr.
15 Belinfante were to instruct you not to answer, and
16 he would use those specific words.

17 So the word "objection" does not mean you
18 don't have to respond to the question. Understood?

19 A Understood.

20 Q And only one of us can talk at once. So I
21 will try like heck not to step on your questions,
22 and I'll ask -- your answers, and I'll ask you not
23 to step on my questions.

24 A Okay.

25 MS. COHEN: Brandon, do you have a

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1 question?

2 (Discussion ensued off the record.)

3 BY MS. COHEN:

4 Q Did you meet -- did you meet with counsel
5 to prepare for this deposition?

6 A Yes.

7 Q When was that?

8 A Last week, for about an hour.

9 Q And where did that take place?

10 A It was virtual.

11 Q You mean --

12 A Was it --

13 Q -- a Zoom session?

14 A Yes.

15 Q Apart from that one-hour meeting with
16 counsel that was virtual, what else have you done to
17 prepare for this deposition?

18 A Nothing.

19 Q Have you discussed your appearance today
20 with anyone?

21 A My executive team is aware that this is
22 where I am today.

23 Q Is that Ms. Rogers and --

24 A Ms. Rogers is my executive assistant, and
25 members of the executive leadership team at DBHDD.

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1 Q And is -- who comprises the executive
2 leadership team at DBHDD?

3 A Jeff Minor, who's our COO; Mary Price, who
4 is our CFO; Ashley Fielding, our assistant
5 commissioner; and then Monica Johnson is the
6 director of the Division of Behavioral Health; Ron
7 Wakefield is the director of the Division of
8 Intellectual and Developmental Disabilities; and
9 Greg Hoyt is the director of Hospital Operations.

10 Q And did you, did you communicate with all
11 of those people to indicate that you would be in a
12 deposition today?

13 A Yes.

14 Q Did you say any more than that about the
15 deposition?

16 A No.

17 Q Okay. Prior to your testimony being
18 noticed, did you receive briefings about this case
19 from any counsel?

20 A None that I can recall.

21 Q You recall this was a complaint that was
22 filed by the United States in 2016?

23 A Uh-hum. (Affirmative.)

24 Q And did you receive a copy at this time --
25 at that time?

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1 A A written copy --

2 Q Yes.

3 A -- are you referencing?

4 Q Written or electronic, but a form of
5 complaint. Have you seen the complaint in this
6 action?

7 A I believe I have.

8 Q And have you been briefed on the progress
9 of this action from time to time?

10 A Occasionally.

11 Q And is that by Mr. Belinfante?

12 A Yes.

13 Q And also by your counsel at DBHDD, Amy
14 Howell?

15 A Possibly. Yes, I do recall.

16 Q And have you been present at any meetings
17 where representatives of other agencies were also
18 present where the case was discussed?

19 A None that I can recall.

20 Q Have you been present at any meeting where
21 any state employees have discussed the case?

22 A Yes.

23 Q And were those meetings at which counsel
24 was also present?

25 A Not that I recall.

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1 Q What were the meetings at which you
2 discussed, you were present when state employees
3 discussed the case?

4 A So what I recall at the moment is most
5 specifically when Clara was working for DBHDD and
6 her primary role was working with the GNETS programs
7 to make improvements, and so in some regular
8 conversations with her we were discussing GNETS'
9 performance and activities, not so much the lawsuit
10 but actually what was happening in her efforts to
11 improve GNETS' performance.

12 Q When you say Clara, you're referring to
13 Ms. Keith?

14 A Yes.

15 Q A former employee of the Department of
16 Education?

17 A Yes.

18 Q And she came to work for the DBHDD?

19 A Yes.

20 Q Other than the conversations that you had
21 with Ms. Keith, have you had any other conversations
22 with state employees about this case?

23 A Not that I can recall, other than
24 Commissioner Frank Berry, of course. So I don't
25 know if you're referencing internal conversations I

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1 would have had when he was Commissioner at DBHDD.

2 Q Did you have conversations with him about
3 the case when he was Commissioner?

4 A Yes.

5 Q And what did you -- when was the first
6 such conversation?

7 A I don't recall.

8 Q Do you recall the substance of any of the
9 conversations?

10 A Not with a great deal of specificity.
11 Certainly as we came into the department and the
12 issues regarding this case were brought to our
13 attention, we would have conversations about our
14 understanding of this issue, and certainly were in a
15 position to be responsive to requests that were
16 being made of the department as they related to
17 GNETS.

18 Q And how do you understand the case,
19 Commissioner?

20 A It's my understanding that the case that
21 was originally brought was the United States
22 suggesting that youth in Georgia were being
23 segregated in their educational experience as a
24 result of their behavioral and related disabilities,
25 and that they were not given the opportunity to be

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1 educated in their zoned schools by virtue of the
2 existence of GNETS.

3 Q Did you agree with those allegations of
4 the United States when you came into DBHDD?

5 A I can't recall having an opinion about --
6 about that.

7 Q Do you have an opinion now?

8 A I do not.

9 Q By the way, you were one of the principal
10 representatives of DBHDD in the prior United States
11 versus Georgia relating to adult mental health? I
12 believe you know Aileen Bell Hughes, my colleague,
13 from that case?

14 A I like that you call it prior, as if it's
15 not current.

16 Q You're familiar with that one?

17 A Yes.

18 Q And were you one of the principal people
19 charged with responding on behalf of DBHDD in that
20 case?

21 A Yes.

22 Q Is the same thing true with respect to
23 this case, that you're one of the principal people
24 charged with responding on behalf of DBHDD --

25 A Certainly.

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1 Q -- to the allegations against the State?

2 A To the degree that I'm asked, absolutely.

3 Q Let's see.

4 What has been your formal education since
5 high school, Commissioner?

6 A I attended the University of Scranton in
7 Pennsylvania, received a psychology degree and --

8 Q What year was that?

9 A 1987. Then I earned a Master's degree in
10 social work at the University of Georgia in 1992.
11 '91, '92.

12 Q Have you ever held any professional
13 licenses?

14 A No.

15 Q So you're not licensed as a social worker?

16 A No.

17 Q And never have been?

18 A Correct.

19 Q Okay. What has been your employment since
20 you earned your Master's in social work in 1992?

21 A My first role following my graduate degree
22 was at the Carter Center, where I served as the
23 assistant director of the mental health program at
24 the Carter Center.

25 Following that, I did a brief stint at a

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1 Community Service Board, the Gwinnett Rockdale
2 Newton Community Service Board.

3 Following that, I worked for a boutique
4 consulting firm called Human Systems and Outcomes,
5 in Tallahassee, Florida.

6 Following that, I was the executive
7 director of the Mental Health Association of
8 Georgia.

9 Following that, I returned to the Gwinnett
10 Rockdale Newton Community Service Board, now known
11 as Viewpoint Health.

12 And following that, I came to the State in
13 2012, initially in the role of deputy commissioner.

14 Q I'm going to stop you right there because
15 I want to get some dates.

16 A Sure.

17 Q During what dates were you the assistant
18 director for mental health at the Carter Center?

19 A '90 -- I'm sorry, I'm bad at dates and it
20 probably says it on my resume. If my graduate
21 degree was maybe '93, I think I was at the Carter
22 Center '94 to '98.

23 Q And then you said you worked for a CSB?

24 A Briefly, yes.

25 Q Which CSB was that?

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1 A Gwinnett Rockdale Newton.

2 Q And how long were you there before you
3 went to your boutique consulting firm in
4 Tallahassee, Florida?

5 A I would say about nine months.

6 Q And so then did you join in the boutique
7 consulting firm in Tallahassee, Florida, in 1999?

8 A Yes.

9 Q And how long did you remain there?

10 A Until 2001. 2000 or 2001. Maybe the end
11 of 2000.

12 Q And did you move to Tallahassee during
13 that period?

14 A I did.

15 Q Did the boutique consulting firm do work
16 in state government?

17 A Yes.

18 Q What was the nature of the work?

19 A The principal in the consulting firm was a
20 court monitor in an Alabama child welfare lawsuit
21 and they were engaged in other state government work
22 in Arizona, Hawaii, and Florida, and the principals
23 of that firm developed a methodology for testing the
24 capacity and performance of human service entities,
25 and so I assisted with the development of protocols

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1 and actually reviewing human service delivery
2 systems, sometimes at a local level, sometimes at a
3 state level, in other states.

4 Q What was the methodology that they -- that
5 your firm used to measure the capacity and
6 performance of human service systems?

7 A It was called Service Testing, where they
8 partnered with the State or locality to develop a
9 location specific protocol for interviewing key
10 stakeholders and moving towards a process
11 improvement and program improvement in partnership
12 with the evaluators so that there would be local
13 ownership of the review process.

14 Q I see. When you referred to location, you
15 were referring to local ownership?

16 A Yes.

17 Q And is that local in the sense of
18 municipal or county entities, or were you referring
19 to the state?

20 A In Alabama, for example, it was county
21 entities. In Arizona, they were regional entities.

22 Q What was the name of your consulting firm
23 in Tallahassee?

24 A Human Systems and Outcomes.

25 Q With respect to the Alabama

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1 responsibilities, was that case in litigation? Was
2 it in compliance? What was the status of it when
3 you first became involved?

4 A It was a consent decree, the RC consent
5 decree. So the work at hand -- the principal in the
6 company, Dr. Ivor Groves, was the court monitor and
7 reporting to the judge. They used the service
8 testing methodology to assert county compliance with
9 the consent decree county by county.

10 Q So you're familiar with the concept of
11 compliance --

12 A Yes.

13 Q -- with consent decrees?

14 A Yes.

15 Q For governmental entities?

16 A Yes.

17 Q And you also have experience in that
18 regard in the United States versus Georgia case that
19 settled in 2010?

20 A Yes.

21 Q And then you went to become the executive
22 director of the Mental Health Association of
23 Georgia?

24 A Yes.

25 Q What year was that?

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1 A 2001.

2 Q How long were you at the boutique
3 consulting firm in Tallahassee?

4 A I think it was about two years.

5 Q From 1999 to 2001?

6 A '1, yeah.

7 Q I'm not familiar with the Mental Health
8 Association of Georgia. Who are its constituent
9 members?

10 A So they are the state association
11 affiliated with the National Mental Health
12 Association, now called Mental Health America.

13 So at the state chapter of this national
14 organization was an advocacy organization.

15 Stakeholders would be both consumers of services,
16 providers of services, people in the state
17 interested in promoting and advocating for mental
18 health.

19 We also did provide some small programs
20 because we had absorbed the Atlanta chapter of the
21 Mental Health Association, and they more directly
22 provided services.

23 Q And how long did you serve as executive
24 director of the Mental Health Association of
25 Georgia?

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1 A Until probably December of 2001. No, I'm
2 sorry. Hold on a second. Sorry.

3 The dates are hard for me. That's the
4 problem with being old.

5 So I left -- I'm trying to figure out my
6 daughter's birthday because I left a month before --
7 or actually a week before.

8 Q Before your first child?

9 A Before my first child was born. I'm
10 working the math here.

11 Q I don't need the precision on the back end
12 of the date, but were you there for about a year?

13 A It was a little bit more than that.

14 Q About two years?

15 A Yeah.

16 Q So from 2001 to 2003?

17 A Till 2000 -- so she's born January '04.

18 Q And what were the principal initiatives
19 that the Mental Health Association was seeking to
20 advance during the time period you were there from
21 2001 to 2004?

22 A So, again, raising awareness about mental
23 health, the need for mental health services, parity
24 in mental health coverage, and supporting local
25 chapters in their efforts to engage people in

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1 awareness about mental health.

2 Q Did this concern children and adolescent
3 psychiatry mental health or --

4 A Across the life span. Both.

5 Q And then what year did you join the
6 Gwinnett Rockdale Newton Service Board?

7 A I began with contract work. I was not a
8 full-time employee.

9 Q Contract work, do you mean you served as a
10 consultant under an independent contractor
11 arrangement?

12 A Yes. Yeah, yeah, doing some project work.
13 It was later in 2004. So probably early fall of
14 2004.

15 Q And how long did you -- so you started as
16 a contractor?

17 A Yeah.

18 Q And then how long did you remain there?

19 A Several years. I remained a contractor
20 for a period of time, and then I ultimately came on
21 as a full-time employee.

22 Q When did you start as a full-time
23 employee?

24 A I don't recall.

25 Q When did you leave Gwinnett Rockdale

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1 Newton?

2 A I left Gwinnett --

3 Q Was it in 2012?

4 A '12, to become -- to come to the State,
5 yeah.

6 Q You left in 2012 to become chief of staff?

7 A Deputy commissioner was my first role.

8 Q To deputy commissioner, okay. Well, let's
9 not get ahead of ourselves.

10 A Yes.

11 Q What was the nature of the contract work
12 that you were doing at Gwinnett Rockdale Newton?

13 I'm going to call it Viewpoint.

14 A You can.

15 Q Does that make sense to you?

16 A Yes, sure.

17 Essentially, I took on special projects in
18 support of Frank Berry, who was then the CEO, and I
19 worked closely before. So wherever special project
20 work was needed, I did that.

21 I don't recall the distinction, really,
22 between when I was doing contract work and when I
23 ultimately became a full-time employee there.

24 Q In any case, it's fair to say you never
25 acted as a social worker for the entity Rockdale

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1 Gwinnett or Viewpoint in the sense of providing
2 social work services to clients?

3 A If you mean direct care to clients,
4 correct, never.

5 Q And so, generally, what was the nature of
6 your work?

7 A In program development and oversight, and
8 then ultimately strategy for the organization.

9 Q Where you had first worked with
10 Commissioner Berry?

11 A When I was -- we first met when I was at
12 the Carter Center, and he was at the Department of
13 Juvenile Justice. So we struck up a friendship at
14 that time.

15 Later, when he still was at the Department
16 of Justice and I was at the Mental Health
17 Association, they experienced some youth suicides in
18 the Department of Justice, and he asked the Mental
19 Health Association to come in and do a review of
20 what was happening in the facilities.

21 Q Did you lead that review?

22 A Yes.

23 Q Apart from your work at the Carter Center
24 and the work at the Mental Health Association
25 relating to these suicides, did you do any work with

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1 Mr. Berry prior to joining Viewpoint?

2 A Not that I can recall, but I -- not that I
3 can recall at the moment.

4 Q When did you last speak to Mr. Berry,
5 Commissioner Berry?

6 A On the -- oh, last speak to him? Um,
7 what's today? Tuesday? Yesterday.

8 Q Yesterday?

9 A Yes.

10 Q And what was the subject matter of that
11 call?

12 A We both dropped off our daughters at
13 college.

14 Q Congratulations.

15 A Thank you. Yes. That was the nature of
16 the call.

17 Q You keep in touch with him as a personal
18 friend?

19 A Yes.

20 Q Has he introduced himself to you in his
21 new capacity on behalf of Ernst & Young?

22 A Not to do any work in the State of
23 Georgia, no.

24 Q But you know he's working there?

25 A Yes. Yeah.

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1 Q Have you gone out to dinner with him since
2 he started working at Ernst & Young?

3 A Yes.

4 Q How many times?

5 A Just once.

6 Q Just once?

7 A Yeah. There was a large group.

8 Q What group was it?

9 A Just a group of former professional
10 colleagues. Just -- not a work dinner, friend
11 dinner.

12 Q Did Commissioner Berry host that dinner?

13 A No.

14 Q Now, you said that you were in charge of
15 program development, oversight and strategy during
16 your years at Viewpoint?

17 A Uh-hum. (Affirmative.)

18 Q What were the principal projects that you
19 were responsible for during your eight years at
20 Viewpoint?

21 A One of the principal projects -- there
22 were several. I oversaw the rebranding of GRN
23 Community Service Board to become Viewpoint Health.

24 I had oversight of the implementation of
25 clinical productivity standards, which was a big

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1 change for the organization.

2 Q How so?

3 A Culture shift. It was happening all
4 across the landscape in behavioral health, moving
5 from delivery of services in clinical settings to
6 meeting productivity standards and having those be
7 transparent for the organization.

8 So, for example, a number of billable
9 hours that a clinician would have to meet.

10 Q So there was a shift to billable hours
11 rather than just seeing --

12 A Right.

13 Q -- whoever came in the door?

14 A Exactly, yes.

15 And then the other large initiative that
16 comes to mind was Viewpoint Health's implementation
17 of a care management entity, which was Viewpoint
18 Health's child and adolescent service delivery
19 option for the organization.

20 Q Let be back up a little bit.

21 What is a Community Service Board as it's
22 understood in Georgia?

23 A So it's essentially a community mental
24 health center. It has an unusual designation in
25 that it's an instrumentality of the State, in the

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1 long -- sometimes people use the term quasi
2 governmental. I don't like that term. It's simply
3 an instrumentality of the State, but they are the
4 public safety net in the designated area for GRN.
5 It was the three county, Gwinnett Rockdale Newton
6 Community Service Board, or people with mental
7 illness, substance use disorders, and intellectual
8 and developmental disabilities.

9 Q And when did the term come into common
10 usage in Georgia? CSB?

11 A With the passage of House Bill 100.

12 Q What year was that? 2009?

13 A I should know. No.

14 Q Earlier?

15 A It's earlier than that.

16 Q So when you came to Viewpoint, it was a
17 Community Service Board --

18 A Yes.

19 Q -- serving both -- and it served both
20 children and adolescents --

21 A Yes.

22 Q -- as well as adults, across the life
23 span, as you say?

24 A Yes.

25 Q And you worked with Commissioner Berry?

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1 A He was the chief executive in my second
2 stint there.

3 Q What do you mean your second -- oh, right.

4 A So my first stint, he was, he was not
5 there.

6 Q So your second stint was from 2004 to
7 2012?

8 A Yeah.

9 Q Your principal stint there, I suppose?

10 A Yeah.

11 Q Were any of the other players at DBHDD
12 working with you at Viewpoint.

13 MR. BELINFANTE: Object to form.

14 Q Between 2004 and 2012?

15 MR. BELINFANTE: You can answer.

16 A I'm not sure I understand the question,
17 actually.

18 Q Sure. Were any of the other current
19 employees at DBHDD working with you at Viewpoint?

20 A Not that I can recall. So at Viewpoint
21 Health and DBHDD, I don't think so.

22 Q When you say you've been a consultant to
23 other states on child and adolescent services, are
24 you referring to the work you did when you were in
25 Tallahassee?

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1 A Yes.

2 Q And that is Arizona, Hawaii, and Georgia?

3 A I did not engage in the Hawaii work. So
4 it was -- for me it was Arizona, Alabama, and
5 Georgia.

6 Q Did you have any Florida work?

7 A Minimal.

8 Q In mid-2012, Commissioner Berry was
9 appointed as the commissioner of DBHDD, correct?

10 A Correct.

11 Q And did he ask you to move with him?

12 A He did.

13 Q And was that the first time you've been
14 employed by the State of Georgia?

15 A Yes.

16 Q And when did you start at DBHDD?

17 A August of 2012.

18 Q And have you been employed continuously by
19 DBHDD since August of 2012?

20 A Yes.

21 Q What, what positions or titles have you
22 had during your time there?

23 A So I began as deputy commissioner, and
24 then I shifted to chief of staff, and then moved
25 into the role of commissioner.

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1 Q You were appointed as Commissioner in
2 February of 2016?

3 A I believe it was December of 2016. As you
4 can see, my dates are --

5 Q Let me try to refresh your recollection a
6 little bit.

7 Commissioner --

8 A The record will reflect this, I'm sure,
9 yes.

10 Q Commissioner Berry left in December of
11 2015.

12 A Okay.

13 Q And do you remember a few months after
14 that, Governor Deal appointed you as the
15 Commissioner?

16 A That is the sequence of what happened,
17 yes.

18 Q So it was roughly February of 2016?

19 A Okay.

20 Q How did your responsibilities change
21 between being the deputy commissioner and being the
22 chief of staff?

23 A So when I was deputy commissioner, when --
24 so when Frank Berry, myself and Jeff Minor, the
25 previously referenced CEO, first came to the -- the

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1 three of us came together, our primary task was
2 really to assess the work of the department as a
3 whole.

4 So coming from a single community service
5 board, stepping into trying to get a handle on a
6 very large department with statewide
7 responsibilities, we spent several months really
8 trying to make sure we understood the landscape
9 broader than what we had experienced out of GRN
10 Community Service Board.

11 So, really, it was a broad role of trying
12 to understand the totality of the hospital system,
13 DD services in the community, mental health services
14 in the community, substance abuse services in the
15 community. So that was the deputy role -- I'm
16 sorry. Did you ask, and then what was the shift
17 when I was chief of staff?

18 Q I did ask how they were different, but I'm
19 going to withdraw that question and put a different
20 question.

21 So you were trying -- the component parts
22 of DBHDD are the State hospital system; is that
23 correct? That's one component?

24 A Uh-hum. (Affirmative.)

25 Q And then behavioral health --

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1 A Uh-hum. (Affirmative.)

2 Q -- services?

3 MR. BELINFANTE: Try to say yes or no.

4 A Yes.

5 Q Thank you.

6 MS. COHEN: Thank you, Josh.

7 BY MS. COHEN:

8 Q And then the developmental disabilities

9 piece?

10 A Yes.

11 Q And did you have a specific portfolio as

12 deputy commissioner or were you just No. 2 to the

13 Commissioner?

14 A No. 2 to the Commissioner.

15 Q And how many months did you remain as

16 deputy commissioner?

17 A I would say it was more than a year in

18 that role.

19 Q Was that a governor's appointment?

20 A No.

21 Q It was an appointment at the pleasure of

22 Commissioner Berry?

23 A Correct.

24 Q And when you refer to hospital services,

25 what hospitals do you -- are you referring to?

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1 A The five state hospitals run by DBHDD.

2 Q Are those mental health facilities?

3 A Primarily.

4 Q And do they also have a component for
5 developmental disorders?

6 A Two of them still do.

7 Q Which are the two?

8 A Atlanta and Augusta.

9 Q And which are the other three?

10 A Central State in Milledgeville, Savannah,
11 and Columbus.

12 Q And so Central State in Milledgeville,
13 Savannah, and Columbus are exclusively charged with
14 mental health disorders?

15 A Yes.

16 Q And have no DD component?

17 A Correct.

18 Q You understand I mean developmental
19 disorders?

20 A Yes.

21 Q And if I say ID, you understand I'm
22 referring to intellectual disorders?

23 A Yes.

24 Q Now, how did your portfolio change when
25 you became chief of staff? What's the difference

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1 between a chief of staff and deputy commissioner,
2 who is the No. 2 person?

3 A As Commissioner Berry, in his role, made
4 it a priority to travel around the State and see
5 programs that the department was contracting for,
6 that accelerated in the first and second year of his
7 administration.

8 What we learned was that as he did that,
9 and it was important for him in that role to be
10 visible, there were still quite a bit of personnel
11 and other activities that needed to be attended to
12 within the department. What we agreed at that time
13 was I would transition to become chief of staff and
14 take on more of the direct reporting of other
15 executives and provide more hands-on support to the
16 actual work in the role of chief of staff, and
17 Commissioner Berry would continue a more external
18 facing, both in terms of travel and legislative and
19 other meetings that he would conduct while he was
20 around the State. And my primary focus would be
21 leading the internal team in the role of chief of
22 staff.

23 Q So did the principal offices of DBHDD
24 report in to you when you were chief of staff?

25 A Yes.

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1 Q Were there any exceptions?

2 A The medical director still reported to the
3 Commissioner. And I can't think of any other at the
4 moment, but not that I'm aware of.

5 Q So you functioned in that role through
6 December of 2015, when Commissioner Berry left?

7 A Yes.

8 Q And then did you have an acting role in
9 running the agency until your formal appointment as
10 Commissioner?

11 A I must have. That's not how I remember it
12 but given the dates you described.

13 Q Let's look at the organizational chart.
14 The one I have is undated.

15 A Okay.

16 Q I believe it's been previously marked as
17 Exhibit 4.

18 (WHEREUPON, Plaintiff's Exhibit-4 was
19 previously marked for identification.)

20 BY MS. COHEN:

21 Q Does this chart reflect essentially the
22 current organizational structure at DBHDD, Exhibit
23 4, that I've put in front of you, which is stamped
24 Georgia 00009 through 16.

25 A No. This is outdated.

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1 Q How it is different?

2 A So there are several people who are on
3 here who have since left the department, and the
4 organization is different now.

5 Q Okay. When do you think this chart dates
6 from?

7 A Probably -- it's pre-COVID, I know that.
8 I would say 2017.

9 Q Looking at Page 9, which of it is accurate
10 and which reflects positions that have been changed
11 or individuals who have moved on?

12 A Okay. I'll just go person by person here.
13 Amy Howell is no longer with DBHDD.

14 Q And is Ms. Patel currently the general
15 counsel?

16 A No. Brenda Woodard is general counsel.

17 Q W-O-O-D-A-R-D?

18 A Correct. Dr. Risby still serves as chief
19 medical officer and reports directly to me.

20 David Sofferin is still with the
21 organization and still in that role, but there's
22 been a person added to the executive team. Ashley
23 Fielding is the assistant commissioner. She reports
24 directly to me. She's assistant commissioner for
25 Agency Affairs.

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1 Q And Mr. Sofferin reports to her?

2 A To her, uh-huh.

3 Q Okay.

4 A Jeff Minor is chief operating officer.

5 Ron Wakefield is still the director of the
6 Division of Developmental Disabilities and reports
7 to me.

8 Monica Johnson is the director of the
9 Division of Behavioral Health and reports to me.

10 Robert Dorr has retired.

11 And Melissa Sperbeck reports to me. Her
12 role has been expanded. She is now the director of
13 the Division of Strategy, Technology and
14 Performance.

15 Q And does that encompass the two divisions
16 that were previously held by -- headed by Robert
17 Dorr and Melissa Sperbeck?

18 A Yes. Lavin Gartland Briggs is no longer
19 with the department.

20 Greg Hoyt is with the department and he
21 reports directly to me with a dotted line to Jeff
22 Minor, and he is the director of Hospital
23 Operations.

24 Doug Engel has retired. We have a new
25 director of the Office of Information Technology

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1 named Jason McSwain. He reports to Melissa.

2 Mark Green remains as the director of HR.
3 He reports to Ashley Fielding.

4 And Mary Price is the chief financial
5 officer and she reports to me.

6 Q Now I'm going to direct your attention to
7 Page 12. Do you have that in front of you?

8 A I do.

9 Q This page shows the direct reports to
10 Monica Johnson?

11 A Uh-hum. (Affirmative.)

12 Q Who remains the director of the Division
13 of Behavioral Health?

14 A Uh-hum. Yes.

15 Q Thank you.

16 Do her direct reports remain the same?

17 A There are several changes.

18 Q What are the changes?

19 A We have a new director of the Office of
20 Crisis Coordination. That's Dawn Peel.

21 Dante McKay is still the director of the
22 Office of Children, Young Adults & Families.

23 Cassandra Price remains the same.

24 Jill Mays remains the same.

25 Dr. Timberlake has -- is no longer with

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1 the department. Carol Caraballo --
2 C-A-R-A-B-E-L-L-O -- no. A-L-L-O, sorry -- is now
3 in that role.

4 We do have a director of the Office of
5 Deaf Services, Kelly Sterling.

6 Adrian Johnson is still the Office of
7 Field Operations.

8 The Office of Recovery Transformation is
9 Dana McCrary.

10 And I believe the Office of Behavioral
11 Health Prevention has been absorbed by Jill Mays.

12 Q I don't think we need to go into the
13 regions, but let me ask you, is one of the principal
14 divisions of the Department of Behavioral Health and
15 Developmental Disabilities the behavioral health
16 side?

17 A Yes.

18 Q And is it called the Behavioral Health
19 organization?

20 A Yes.

21 Q So the division name remains the same?

22 A Yes.

23 Q And then the other principal divisions are
24 the Hospital Division, correct?

25 A Yes.

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1 Q And the Developmental Disabilities
2 Division, correct?

3 A Yes.

4 Q And --

5 A And then we consider strategy, technology
6 and performance another division.

7 Q So have you a fourth division?

8 A Yes.

9 Q Is that the Accountability Division?

10 A Yes.

11 Q Has there been an up-to-date -- has there
12 been an up-to-date chart produced, organizational
13 chart, since this time?

14 A Yes.

15 Q Yes?

16 A Yes.

17 Q Can you get us a copy of the current
18 organizational chart?

19 A Yes.

20 Q Same colors?

21 A I believe so.

22 Q We'll put this to the side for a minute.

23 And who do you report to as Commissioner?

24 A Kristyn Long in the Governor's Office.

25 Q How do you spell her name, L-O-N-G?

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1 A L-O-N-G.

2 Q And what is her title?

3 A She is deputy chief operating officer.

4 Q And who does she report to?

5 A Lauren Curry.

6 Q And Lauren's title?

7 A Chief operating officer.

8 Q And does Lauren Curry report to?

9 A I believe it's Trey Kilpatrick, the
10 governor's chief of staff.

11 Q And Mr. Kilpatrick, I take it, reports to
12 Governor Kemp?

13 A As I understand it.

14 Q Now, with regard to the division of
15 department functions between behavioral health and
16 developmental disabilities, is it the department of
17 -- does the Division of Developmental Disabilities
18 provide services for children and adolescents?

19 A Yes.

20 Q And what age-group does it provide
21 services to?

22 A Across the life span, if they're eligible
23 for our DD services.

24 Q What is the eligibility criteria?

25 A It's established in policy through our

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1 waiver program of -- an individual would have to
2 qualify by virtue of their intellectual or
3 developmental disability as tested through various
4 validated instruments to determine the extent of
5 functional and developmental and intellectual
6 impairment.

7 Q So is there a line of demarcation between
8 behavioral health, the population served by
9 behavioral health and developmental disabilities, or
10 is -- or do -- are some served by both divisions?

11 A There is a line of demarcation.

12 Q What is it?

13 A Driven by the individual's diagnostic
14 profile and needs.

15 Q So what are the diagnoses associated with
16 the Division of Behavioral Health?

17 A So behavioral health would be serving
18 individuals with mental health and substance use
19 disorders. So mental health issues, such as
20 depression, anxiety, schizophrenia. And those items
21 listed in the DSM-IV, or V now, which essentially
22 establishes the definition of various mental health
23 disorders.

24 Q And what about the Division of
25 Developmental Disability, what are the diagnoses

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1 that it's responsible for?

2 A So intellectual and developmental
3 disabilities that impair -- that exhibit impairment
4 of functioning and intellectual or developmental
5 progress. Once again, as defined by -- or as
6 measured by validated testing, like an IQ test or
7 other developmental assessment.

8 Q What about if the individual -- are there
9 any individuals who are duly diagnosed in that they
10 have intellectual disability and a mental health or
11 substance abuse disorder?

12 A Yes.

13 Q And is the ID label the controlling label?

14 A The primary diagnosis is the --

15 Q Primary diagnosis?

16 A -- controlling label.

17 Q And is that usually ID?

18 A It depends on the individual circumstances
19 and the acuity or functional impairment of the
20 individual.

21 Q And the Office of Children, Youth &
22 Families provides services to both mental health
23 disorders and substance abuse disorders; is that
24 right?

25 A They contract with providers that provide

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1 behavioral health services.

2 Q Thank you. I was using provide services,
3 but they're concerned --

4 MS. COHEN: Let me rephrase it.

5 BY MR. HOLKINS:

6 Q The OCYF -- which you understand is the
7 Office of Children, Young Adults & Families --

8 A Yes.

9 Q -- is concerned with mental health
10 disorders and behavioral disorders -- sorry -- with
11 mental health disorders and substance abuse,
12 correct?

13 A Yes.

14 Q And it's not concerned with intellectual
15 disabilities and impairments?

16 A At times there are occasions where
17 personnel and programs that are in OCYF are drawn
18 into complex cases where an identified individual
19 might have an intellectual and developmental
20 disabilities -- or disability and there may be
21 co-occurring behavioral health issues that requires
22 the two divisions to come together.

23 Q Apart from those circumstances, in
24 general, OCYF's principal focus, it's fair to say,
25 is on mental health and substance abuse?

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1 A Yes.

2 Q Now, what are your duties and
3 responsibilities as Commissioner?

4 MR. BELINFANTE: Object to the form.

5 A I am responsible for planning, oversight,
6 and execution of the department's responsibilities,
7 including budgetary, operational, and clinical.

8 Q I'm sorry -- let's see. Budgetary,
9 operational, and clinical?

10 A Yes.

11 Q What is the population that DBHDD has
12 budgetary responsible for?

13 A Individuals in Georgia who have mental
14 illness, substance use disorders, and intellectual
15 and developmental disabilities with a priority on
16 individuals who are uninsured or receiving Medicaid
17 and at the highest level of need.

18 Q So the Department of Behavioral Health and
19 Developmental Disabilities has budgetary responsible
20 for all individuals in Georgia who have mental
21 illness, substance use disorders, and intellectual
22 and developmental disabilities?

23 MR. BELINFANTE: Object to the form.

24 A No. Not in the way -- could you say your
25 -- we don't have responsibility for all individuals

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1 in the State who have --

2 Q I asked you previously what is the
3 population that DBHDD has responsibility, budgetary
4 responsibility for, and you said individuals in
5 Georgia who have mental illness, substance use
6 disorders, and intellectual and developmental
7 disabilities, and then you mentioned the priority
8 being individuals receiving Medicaid and at the
9 highest level of need.

10 A And individuals who are uninsured is the
11 designated priority population.

12 Q So does the DBHDD have responsibility for
13 all individuals in --

14 MS. COHEN: I'm sorry. Withdraw that.

15 BY MS. COHEN:

16 Q Does DBHDD have responsibilities for all
17 individuals in the State of Georgia who receive
18 public services for mental health, developmental
19 disabilities, and substance abuse disorder?

20 MR. BELINFANTE: Object to form.

21 A No. We have responsibility for the ones
22 that we administer.

23 Q And which are the ones that you
24 administer?

25 A That varies a lot by program areas. So,

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1 for example, there are people with intellectual and
2 developmental disabilities that might be on a
3 waiver, like the Katie Beckett waiver program.
4 DBHDD does not oversee that waiver program. So I
5 would not say that we have responsibility for all
6 individuals receiving public services.

7 Q Does DBHDD develop a provider care manual
8 that outlines the behavioral health services that
9 are provided in the State of Georgia?

10 A For the services that the department
11 contracts for, yes, we have a provider manual.

12 Q And are there other services that are
13 subject to a different provider manual?

14 A I can only speak to the ones that we
15 contract for and how we contract with a provider,
16 hold them accountable for the services that they
17 deliver.

18 Our providers receive funds from other
19 sources. Those other sources might dictate the
20 service provision guidelines and accountability.

21 Q What I'd like to know, Commissioner, is
22 what are the provider care manuals that are
23 applicable to the provision of behavioral health
24 services in Georgia, whether by DBHDD or any other
25 state agency, that you're aware of?

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1 A So I'm not sure I understand the question.

2 Again, I'll speak to DBHDD --

3 Q Well, let me, let me interrupt you so we
4 don't waste any time.

5 DBHDD puts out a provider care manual that
6 covers the services that the agency administers?

7 A We -- yes.

8 Q And DCH puts out a provider manual for the
9 services that it contracts for, correct?

10 A Yes.

11 Q Do you -- are you aware of any other
12 provider manuals that cover the provision of public
13 behavioral health services in Georgia?

14 MR. BELINFANTE: Object to form.

15 A I'm not familiar with any.

16 Q And with respect to the provider manual
17 that's put out by DBHDD and the provider manual
18 that's put out by DCH, there is a tremendous effort
19 within your agency to coordinate those two manuals,
20 right?

21 A Yes.

22 Q Who leads that effort?

23 A Wendy Tiegreen is essentially our liaison
24 between the Department of Community Health and
25 DBHDD, but in our representative program areas we

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1 have program experts in behavioral health and in
2 intellectual and developmental disabilities who
3 would also be engaged in very detailed work.

4 Q Now, what are the services that DBHDD
5 contracts for in behavioral health as distinct from
6 the services that DCH contracts for?

7 A So DBHDD has a four-hour -- we have
8 three-tiers of providers, and those tiers are
9 designated by the services they provide.

10 So Tier I provides a set of core services,
11 which we use that term, "core services." That's
12 essentially the continuum of services, the minimum
13 continuum of services that a CSB should provide.

14 Q And does DCH similarly provide for those
15 services?

16 A I'm not sure how to answer that question
17 in that way.

18 Q Maybe I'm asking you the wrong question.
19 Let me back up a little bit.

20 A Okay.

21 Q Who is the population that DBHDD contracts
22 services for?

23 A The individuals with severe -- serious and
24 persistent mental illness, and for youth, youth with
25 serious emotional disturbances.

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1 That's the prime population for the state
2 funds. We also receive federal funds to do other
3 things. But assuming you're talking about the state
4 funds here.

5 Q Is that population with serious and
6 persistent mental illness in use, with serious
7 emotional disturbances, are all services to that
8 population provided by DBHDD, or are some provided
9 by DCH?

10 A It depends on the individual's insurance
11 in some cases.

12 Q So your answer is yes, some are provided
13 by DBHDD and some are provided by DCH?

14 A Through DCH contracted providers.

15 Q And working off the behavioral manual that
16 presumably describes common services?

17 THE WITNESS: God bless you.

18 MR. BELINFANTE: Thank you.

19 A Yes.

20 Q And the dividing line is, between DCH and
21 DBHDD is the type of insurance an individual has or
22 whether they're insured or not?

23 A Primarily.

24 Q And which individuals does DBHDD contract
25 for services for with regard to their insurance or

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1 lack thereof?

2 A Yeah, so generally individuals who are
3 uninsured are DBHDD's responsibility.

4 Also, our provider network, it may also be
5 serving individuals receiving Medicaid or possibly
6 Medicare, and some insured individuals. It depends
7 on whether or not the providers are on the insurer's
8 panel.

9 Q And is that determined by the CMO who is
10 on the insurer's panel?

11 A It might be determined by the organization
12 themselves, if they've applied to be on the
13 insurance panel.

14 Q So what you're talking about is, is it a
15 difference in funding where DBHDD contracts for some
16 services and funds them, and DCH contracts for
17 services for individuals with different kinds of
18 insurance and funds that?

19 A Yes. But individuals have choice of
20 provider. Let me just say that, right.

21 So if there's an individual with serious
22 and persistent mental illness in a local community,
23 they may be able to choose what provider they're
24 going to. I think that's why I'm a little confused
25 -- or it's not quite as cut and dry at the system

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1 level. It is influenced by what's available to the
2 individual, what they can choose locally.

3 Q And what's available to the individual and
4 what dictates their choice is the type of insurance
5 that they have available?

6 A Largely.

7 Q Okay. So what we have are two
8 organizations, two state agencies, DCH and DBHDD,
9 both contracting for behavioral health services,
10 correct?

11 A Correct.

12 Q And as far as you know, that represents
13 the universe of publicly provided behavioral health
14 services in the State of Georgia?

15 MR. BELINFANTE: Object to the form.

16 A Well, I'm also aware that behavioral
17 health services are being delivered in the GNETS
18 program, and almost all the child serving state
19 agencies also provide behavioral health services.

20 Q Let me back up.

21 Which state agencies provide behavioral
22 health services paid for by Medicaid?

23 A Department of Behavioral Health and
24 Developmental Disabilities, Department of Community
25 Health, DFCS. And DJJ, although I think DJJ is all

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1 state funded. I'm not entirely sure about that.

2 And then DOE through GNETS is paying for
3 behavioral health services, small percentage in
4 public health, DPH for the zero to three population,
5 and a small percentage in the DECAL, the Department
6 of Early Care and Learning.

7 Q What you're saying, Commissioner -- I
8 don't want to put words in your mouth, but I want to
9 summarize my understanding of what you're saying,
10 and you can tell me whether it's accurate -- is that
11 the Department of Education provides behavioral
12 services through its GNETS program?

13 A Correct.

14 Q And do you -- are you aware of any other
15 behavioral services that are provided by the
16 Department of Education?

17 A I don't know if I would consider them
18 behavioral services, but I do know enough about
19 other initiatives in DOA -- DOE that impact mental
20 health in the school system.

21 For example, PBIS.

22 Q Do you have my question in mind?

23 Are you aware of any other behavioral
24 services that are provided by the Department of
25 Education other than GNETS?

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1 A No.

2 MR. BELINFANTE: Object to form.

3 Q I probably should have come to this
4 earlier, but let me just ask you, how do you define
5 behavioral health services?

6 A So behavioral health is the term used to
7 describe mental health and/or substance abuse
8 disorders. So behavioral health services are those
9 activities, supports and interventions which address
10 the early identification or response to those
11 conditions or symptoms that are indication of a
12 mental health or substance use disorder.

13 Q So as you're using the term "behavioral
14 health services," does it refer only to clinical
15 services or to other services as well?

16 A Other services as well.

17 Q So does the Department of Education
18 through the GNETS program provide clinical
19 behavioral health services?

20 A It's my understanding that they do.

21 Q And are the clinical behavioral health
22 services that are provided by the Department of
23 Education, are those the services that are
24 identified in either the provider manual put out by
25 DBHDD or by DCH?

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1 A I can't say. I don't know.

2 Q What kind of reporting do you receive from
3 DCH with regard to the clinical services that it
4 provides?

5 A I do not receive reporting from DCH on
6 their provision of services.

7 Q And do you provide reporting to DCH
8 regarding your provision of services?

9 A We report to DCH on services delivered
10 through the IDD waiver program.

11 Q Apart from the IDD waiver program, do you
12 report to DCH in any way on clinical services
13 provided?

14 A No.

15 Q And I'm using report in the sense of
16 provide data.

17 A We do share data with DCH.

18 Q In what circumstances?

19 A Where it's aggregate data and allowable,
20 and we do share data around the utilization of
21 PRTFs.

22 Q F?

23 A PRTF, Psychiatric Residential Treatment
24 Facility.

25 Q Apart from that, do you share any data?

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1 A Again, we have a cooperative relationship
2 with DCH, so we do share data.

3 Q But your regular data sharing arrangement
4 with DCH relates to sharing of data relating to
5 PRTFs?

6 A That's been more specific and project
7 focused in recent years.

8 Q Now, when I asked you what behavioral,
9 clinical behavioral health services were provided by
10 DOE through the GNETS program and whether they were
11 covered with regard to either of the two major
12 provider manuals, DCH or DBHDD, you said you didn't
13 know. What services does D -- excuse me.

14 What clinical health services does DOE,
15 behavioral health services, what clinical behavioral
16 health services does DOE provide through the GNETS
17 program?

18 A It's my understanding that they provide
19 behavior aids and supports to youth who maybe need
20 behavioral intervention in order to be in the
21 learning environment.

22 Q Anything else?

23 A Not that I'm directly aware of.

24 Q Does the Department of Education or the
25 GNETS programs or anyone bill Medicaid for those

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1 services?

2 A I'm not sure.

3 Q Who would have that information?

4 A Somebody from the Department of Education.

5 Q Who?

6 A Oh. I don't know.

7 Q Well -- so I think we've been talking
8 about provision of behavioral health services in the
9 sense of contracting. Is DBHDD also responsible for
10 the design or selection of behavioral health
11 services?

12 A Yes.

13 Q What behavioral health services is DBHDD
14 responsible for the design or selection of?

15 A We're responsible for the articulation of
16 what is in -- what is made available through the
17 core package of services that providers deliver.

18 Q And is that core package essentially the
19 same for both DCH and DBHDD?

20 A I can't speak to that. I know what
21 DBHDD's core service package is.

22 Q Sure.

23 A And what's in the Medicaid State Plan,
24 which is what drives DCH's service delivery package.
25 That's where it's articulated.

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1 Q So it's fair to say that DBHDD sets the
2 policy for what clinical behavioral health services
3 are provided?

4 MR. BELINFANTE: Object to the form.

5 A Yes.

6 Q That's statewide?

7 A That's for the services that we
8 administer.

9 Q Is it fair to say that the services that
10 you administer and the services that DCH provides
11 are essentially identical based on the provider
12 manuals for the two organizations?

13 MR. BELINFANTE: Object to form.

14 A Not exactly.

15 Q Are you aware of any services that DBHDD
16 provides through its provider manual that are not
17 provided by DCH?

18 A I believe there are some.

19 Q Can you identify them, Commissioner?

20 A Not at this moment.

21 Q So as far as the bulk of the services with
22 which you're familiar, they're identical between DCH
23 and DBHDD?

24 A The bulk of services, yes.

25 Q Referring to behavioral health services?

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1 A Yes.

2 Q Now, does DCH have a role in selecting
3 what behavioral health services the State provides,
4 or is that role reserved to DBHDD?

5 A DBHDD is the behavioral health authority,
6 but we work in concert with the Department of
7 Community Health. So if there were a program or
8 service area that we deemed important or necessary
9 to be included, we would likely be in conversation
10 with DCH about why that was, how that might play out
11 in the network of service delivery.

12 Q And so it's fair to say that you work in
13 concert with DCH on selection of behavioral health
14 services, and DBHDD has the final authority?

15 MR. BELINFANTE: Object to form.

16 A Yes, DBHDD is the authority.

17 Q So let's just take an example of the
18 Georgia Apex program.

19 You're familiar with that, Commissioner?

20 A Yes.

21 Q We'll talk about it in a little more
22 detail later, but let's just take it as an example.

23 So the Georgia Apex Program represents an
24 initiative by DBHDD to advance certain services in
25 certain settings to children and adolescents with

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1 behavioral health needs?

2 A Yes.

3 Q And some of those services are paid for by
4 DBHDD and some are paid for by DCH?

5 A Yes.

6 Q But the control of the program rests with
7 DBHDD?

8 A Yes.

9 MR. BELINFANTE: Object to form.

10 THE WITNESS: May I, before we go?

11 Because it looks like we're going into a line
12 of question here. I just need a quick bathroom
13 break.

14 MS. COHEN: Sure.

15 THE WITNESS: Can we do that?

16 MS. COHEN: We can do that, and I don't
17 know of how urgent it is, but we can also order
18 lunch if you like to do that now, Josh.

19 MS. ROSS: Okay.

20 THE WITNESS: I need more water.

21 THE VIDEOGRAPHER: We're off the record at
22 10:33 a.m.

23 (A recess was taken.)

24 THE VIDEOGRAPHER: Back on the record at
25 11:02 a.m.

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1 BY MS. COHEN:

2 Q So I think, Commissioner, when we broke
3 before I had asked you about an example which was
4 taking as an example the Georgia Apex Program.
5 That's an initiative by DBHDD to advance certain
6 services where it's paid for some by DBHDD and some
7 by DCH but control of the program rests with DBHDD?

8 A Correct.

9 Q And is that true, as far as you know, of
10 all of the programs that are jointly contracted for
11 by DBHDD and DCH?

12 A So your --

13 MR. BELINFANTE: Object to form.

14 A -- your terminology, I think I'm not
15 connecting to the language that you're using there
16 of joint program.

17 Can I make sure I'm understanding?

18 Q Sure. As far as you know, all of the
19 behavioral health services that DCH provides are
20 subject to the ultimate control of DBHDD?

21 A So I want to clarify language that you're
22 using. Again, DCH doesn't provide the service,
23 right. They act as an insurance and regulatory
24 body. They contract with providers who deliver
25 services that are allowable within the design

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1 program.

2 Q So you feel more comfortable with the
3 terminology "contracted for"?

4 A Yes.

5 Q Is there other of my terminology that you
6 wanted to correct?

7 A Let's just keep going through and where I
8 think about it differently, I want to make sure that
9 I'm describing exactly how I understand it to
10 actually occur.

11 Q Thank you.

12 A Yeah.

13 Q So where services, behavioral health
14 services for children and adolescents are contracted
15 for by DCH, as far as you know DBHDD has control of
16 what services are provided?

17 A When I say we act as the behavioral health
18 authority, that means we have the expertise to
19 advise as to the service array that should be
20 available, but there are other controlling forces
21 that would decide what actually is available in the
22 State.

23 Q And do any other agencies have expertise
24 in behavioral health services?

25 MR. BELINFANTE: Object to form.

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1 A Yes.

2 Q What are they?

3 A I can give a few examples that I'm aware
4 of.

5 Q Sure.

6 A I know the Department of Juvenile Justice,
7 for instance, has a -- I don't know what the
8 official title is but they have a director of
9 behavioral health services.

10 I know in the Department of Early Care and
11 Learning they have a director of Infant and Early
12 Childhood Services.

13 And then at DCH they have a position that
14 I believe is director of Behavioral Health Services.

15 And at the Department of Human Services,
16 which oversees DFCS, I believe they also have a
17 director of mental health or behavioral health
18 services.

19 Q As you know, this lawsuit focuses on
20 GNETS, the GNETS program.

21 As Commissioner of the Department of
22 Behavioral Health, what responsibilities do you have
23 that relate specifically to GNETS?

24 MR. BELINFANTE: I object to the form.

25 A I don't have any responsibilities that

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1 relate to the provision of GNETS.

2 Q Who on your staff has primary
3 responsibility for the delivery of behavioral health
4 services through GNETS?

5 MR. BELINFANTE: Object to form.

6 A We do not deliver -- DBHDD does not
7 deliver behavioral health services through GNETS.

8 Q I understand that, but who on your staff
9 is responsible for interacting with DOE regarding
10 the provision of behavioral health services through
11 GNETS?

12 MR. BELINFANTE: Object to form.

13 A Dante McKay is the director of the Office
14 of Children, Youth & Families. So he is our primary
15 point of contact for services that relate to
16 children and adolescents.

17 Q Is there anyone that has more specific
18 involvement with the GNETS program than Mr. McKay?

19 A Not that I'm aware of.

20 Q Did you ever designate Monica Johnson as a
21 point person for coordinating with GNETS?

22 A There may have been a time early in our
23 engagement at DBHDD where Monica would have been the
24 point person. Monica oversees the full continuum of
25 behavioral health services now, so it would be most

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1 appropriate for Dante and his office to be more
2 directly engaged with services related to children
3 and adolescents.

4 Q As you sit here today, are you able to say
5 who is the point person at DBHDD for interfacing
6 with DOE regarding GNETS?

7 A Not regarding GNETS. We have a staff
8 person named Layla Fitzgerald, who coordinates with
9 DOE, but it is not my understanding that is in
10 relation to GNETS.

11 Q So your answer to my question, as you sit
12 here today, are you able to say who the point person
13 at DBHDD is for interfacing with DOE regarding GNETS
14 is that you're not aware of one?

15 A I would hold Dante McKay accountable for
16 information that I needed.

17 Q But my question relates to who is
18 designated as the point person for interfacing with
19 DOE with regard to GNETS. Who is that?

20 A I'm not aware of someone in that
21 designated role.

22 Q In terms of your personal involvement, if
23 you have questions about the GNETS program, who do
24 you meet with on your staff?

25 A I would start with Dante McKay.

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1 Q Anyone else?

2 A No.

3 Q Who are the key individuals employed by
4 DOE who you've met with regarding GNETS?

5 MR. BELINFANTE: Object to form.

6 A I have not met with anyone from DOE
7 regarding GNETS in recent history.

8 Q Well, apart from being briefed about this
9 case, in other words, apart from this litigation, in
10 the course of, regular course of your duties, who on
11 your staff have you had conversations with about
12 GNETS?

13 A Apart from the case, probably only Dante
14 McKay.

15 Q Have you ever spoken to the Governor's
16 Office, by which I mean the Governor, the governor's
17 counsel, the governor's chief of staff, your
18 reporting chain, have you ever spoken to anyone in
19 that chain at the Governor's Office about GNETS?

20 A Only reported to them my deposition today.

21 Q Let's go back in time to 2015 to 2016.

22 That was just about when you were ending
23 your time as chief of staff, correct?

24 A Yes.

25 Q And in that year Commissioner Berry, I

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1 think you testified, or agreed with my suggestion,
2 transitioned in December of 2015?

3 A Yes.

4 Q And Governor Deal appointed you in early
5 2016.

6 Now, with regard to the Georgia Apex
7 Program, was that something that had been developed
8 before you and Commissioner Berry came to the agency
9 in 2012, or was it developed subsequently?

10 A Developed subsequently.

11 Q And was its pilot year 2015 to 2016?

12 A I believe that's correct.

13 Q When did the germ of the idea for the Apex
14 program, maybe even before the name evolved, when
15 did that develop with DBHDD?

16 A So the concept of school-based mental
17 health programs -- and by that I mean the provision
18 of mental health services in the school setting --
19 has been around for a long time. I believe early
20 discussions about that started in 2014, led by
21 Monica Johnson, who had previously worked in the
22 community and had seen successful school-based
23 mental health programs and had mentioned that if
24 there were ever extra funding available at -- you
25 know, as sometimes happens at the end of a fiscal

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1 year, that might be a pilot program she would be
2 interested in implementing.

3 Q So as far as you know, it was her
4 brainchild?

5 A Yes, based on experience.

6 Q And how did you get the initial funding?
7 Was it end-of-the-year scraps, or did you do a
8 grant?

9 A My recollection was end of year for the
10 initial pilot.

11 Q The general assembly of the Georgia
12 legislature granted money to the department, and
13 from that money a pilot program was set up?

14 A I believe the initial pilot might have
15 just been funds within the Office of Children, Youth
16 & Families that enabled us to just begin, but I
17 don't recall --

18 Q Fair enough.

19 A -- the first pilot.

20 Q I'm going to move you even further back in
21 time, to Viewpoint/Gwinnett Rockdale Newton.

22 When you were working at Viewpoint, did
23 you have any responsibilities or involvement with
24 school-based mental health programs?

25 A So Viewpoint Health was the recipient of a

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1 federal System of Care grant. I don't remember what
2 year that was, but we had tried several times and
3 been unsuccessful. So it was the First Federal
4 System of Care grant that came into the State.

5 In that context of that federal grant, we
6 tried to do a number of community-based activities,
7 one of which was school-based mental health, to
8 bring school -- mental health services into the
9 school setting.

10 My reflection is we were met with general
11 resistance from local school settings in the
12 Gwinnett and Rockdale systems.

13 Q Were those the two counties that you
14 engaged with at Viewpoint with regard to
15 school-based behavioral mental health services?

16 A I primarily recall Rockdale County. I
17 can't recall if we made other efforts in Newton and
18 perhaps some in Gwinnett, but Rockdale was initially
19 the primary focus.

20 Q Did you write -- did you write that grant?

21 A I did not.

22 Q Did you participate in it?

23 A Yes.

24 Q And who wrote the grant?

25 A We had a grant writer at the department.

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1 Frank participated and some other team members from
2 Viewpoint Health.

3 Q And you --

4 A Collective effort.

5 Q And you were involved in that effort?

6 A Yes.

7 Q And what was the scope of the grant?

8 A It was -- so the federal System of Care
9 grants have sort of a defined set of parameters of
10 activities and System of Care approach supports and
11 services that they want to incentivize.

12 So we look to what the federal grant
13 offers, and then we proposed a program in Georgia
14 called Kids Net Georgia, which seeks to align with
15 the goals and values of System of Care, and
16 essentially have more youth-centered and
17 collaborative and coordinated services for youth at
18 risk or in need of behavioral health services in the
19 community.

20 Q Now, I'm probably going to get in trouble
21 because I haven't asked you to define System of
22 Care.

23 How do you understand that term?

24 A So I understand it as a federal
25 designation, and very specifically it's considered

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1 an approach to care, not a program itself, but it's
2 a way of approaching services for youth with either
3 at risk or in need of behavioral health services.

4 So it's a collection of activities, values
5 and approaches that are used to assist youth and
6 their families in accessing the care they need.

7 Q And it is a hallmark of that approach that
8 the provision of services by different agencies are
9 integrated to the greatest extent possible?

10 A I think the hallmark is that agencies
11 collaborate.

12 Q The hallmark is collaboration between
13 agencies?

14 A One of the hallmarks, yes.

15 Q In terms of the Rockdale County System of
16 Care grant, which ultimately grew into KidsNet, the
17 collaborating agencies were DBHDD, the providers,
18 and the local education authorities?

19 A As I recall.

20 Q And did the Department of Education have
21 any involvement?

22 A Not that I recall.

23 Q And were you also involved in
24 administering the grant once you got the funds?

25 A Probably more accurate to say oversight of

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1 the administration.

2 Q Were you involved in oversight of the
3 administration when you got the funds?

4 A The grant, yes.

5 Q The grant. Thank you.

6 Then when it was expanded to KidsNet, that
7 was across the State of Georgia; is that right?

8 A Yes.

9 Q And were you again working at Viewpoint
10 and responsible for the oversight of the
11 administration of those grants?

12 A Yes.

13 Q And as a result of that experience, by the
14 time you joined DBHDD in 2012, were you a proponent
15 of the System of Care approach?

16 A Yes.

17 Q Why?

18 A I think that the core values embedded in
19 the System of Care approach are good guiding values
20 for the delivery of services to youth and families.

21 Q And what are those core guiding values?

22 A That services should be guided by the
23 youth and their family, cultural and linguistically
24 competent, involve collaboration among community
25 partners and agencies.

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1 Those are just a few examples.

2 Q So I am not, as you know, a public service
3 administrator or a psychologist, but in lay terms
4 what is the reason that it's important to have the
5 services be guided by youth and their families?

6 A I think evidence would suggest when
7 individuals have a say in the treatment modalities
8 and services being delivered, they're more likely to
9 have successful engagement and successful outcomes.

10 Q So that's why it's important -- what does
11 it mean to have the services be guided by the youth
12 and the family?

13 A To me, in this context, it means --

14 Q I'm really asking -- you've been a
15 proponent of this for a long time. I really want to
16 get your understanding.

17 A So that in an individual clinical setting,
18 a family, a youth that's seeking services is asked
19 for their preferences in the type of clinician,
20 might have some say in the treatment modalities, and
21 that the family would be brought in to conversation
22 about progress being made and that -- just like any
23 of us in our own healthcare setting would want the
24 doctor to know what's working, what we like -- that
25 youth and even seriously disabled youth should have

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1 the opportunity to state their preferences.

2 Q And is that an important principle by
3 which you're guided in the administration of DBHDD?

4 A Yes.

5 Q So you came to DBHDD with that experience,
6 and was Commissioner Berry a proponent as well, as
7 far as you know, of System of Care principles?

8 A In my experience, yes.

9 Q So I think you told us it was Monica
10 Johnson's brainchild, but what were the principal
11 goals of the Apex program at the time the pilot was
12 launched?

13 A At the time the pilot was launched, the
14 national landscape was beginning to change.

15 Q The national landscape with respect to the
16 provision of behavioral health services?

17 A In school settings.

18 I described the Rockdale experience where
19 I felt there was resistance of schools who did not
20 want mental health services delivered in the school
21 setting. That was our, generally, our experience.
22 It was hard to get in the door.

23 I do believe the national landscape was
24 changing and there was greater receptivity to
25 recognizing that it might be helpful if services for

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1 youth were more accessible, such as having them
2 right in the school setting.

3 So there were some identified schools that
4 Monica certainly believed might be receptive to if
5 we wanted to pilot doing something in the school,
6 that there might be an ability to have someone
7 partner with us to do that.

8 Q And when do you date this change in the
9 landscape in favor of school-based mental health
10 services or increasing receptivity to them?

11 A I would say in the early -- you know,
12 really, around the time, in that 2010 -- 2010, 2011,
13 2012, things are popping up in different states in
14 different ways, and the federal government, SAMHSA,
15 the Substance Abuse and Mental Health Services
16 Administration, that guides our federal granting,
17 seemed to be promoting more opportunities for
18 school-based mental health and the like.

19 So there was just more conversation about
20 it. I don't think it's a flip of the switch. I
21 think there's sort of a slow roll towards
22 acceptance.

23 Q So for school-based mental health, when
24 you say it's provided in the school, what do you
25 mean provided in the school? How is it different

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1 from services provided in a clinic setting?

2 A So primary difference is the location,
3 which being right in the school setting. So
4 presumably that might make it easier for a student
5 to access a clinician who is right there within the
6 walls of the place, that maybe they take a bus ride
7 there. And so having that clinical support right on
8 campus or within the walls of the building would
9 make it presumably for some people easier to access.

10 Q So there have been guidance counselors and
11 mental health professionals in schools for many,
12 many years predating the 2010 era; isn't that right?

13 A Yes.

14 Q So how do you distinguish school-based
15 mental health services from what was happening
16 before the movement towards school-based mental
17 health services?

18 A My experience was that what was available
19 in the school setting varied depending on what the
20 local school -- what the local education authority
21 had determined.

22 So, for example, a guidance counselor
23 might be more focused on guiding youth towards
24 post-high school options and helping them pick the
25 right course work. That's very different than a

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1 clinical counselor who might help a youth who's
2 having an anxiety issue in the classroom. So their
3 functions might be different.

4 My experience was that was highly
5 localized, what that looked like in any given school
6 setting.

7 Q So what you're talking about is providing
8 clinical services of the kind that are identified in
9 the manuals we've spoken about directly in the
10 schools?

11 A That's part of what the Apex program does,
12 but I don't want to suggest that's the only thing
13 that Apex does. So that's my only hesitation there.

14 Q Okay. So my question is, is it accurate
15 to say that the shift to school-based mental health
16 services was to provide -- to having clinicians
17 directly provide clinical services to students in
18 schools?

19 A Again, that's only one aspect of --

20 Q No --

21 A -- Apex.

22 Q My question is, does it include, not
23 whether it's the totality.

24 A Yes, that's one aspect of what's included.

25 Q What are the other aspects of the Apex

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1 program?

2 A So one of the important elements is to
3 assist the faculty and administration with their
4 understanding of mental health issues in the school.
5 So an Apex -- that is one thing, and I don't want to
6 forget the other.

7 The Apex program is defined to be a
8 partnership between the school and a community-based
9 provider. So both of those elements are important
10 in the design, in addition to the third element,
11 which you've already pointed to, the direct
12 provision of services to youth.

13 Q So the elements that you're referring to
14 are the partnership between the school
15 administration or faculty and a community-based
16 provider?

17 A Yes.

18 Q The provision of direct clinical services
19 to youth --

20 A Yes.

21 Q -- in the school?

22 Now, when was Dante McKay hired?

23 A I don't know the date.

24 Q Was it roughly 2015?

25 A Honestly, I don't know. That sounds

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1 reasonably accurate. He's been with us for a little
2 while.

3 It was during our tenure.

4 Q And were you involved in the search
5 process that led to his hiring?

6 A No.

7 Q Was that led by Ms. Johnson?

8 A Yes.

9 Q Did she have previous relationship with
10 Mr. McKay?

11 A I don't know.

12 Q Was leadership at the Apex program one of
13 the principal responsibilities that Mr. McKay was
14 hired for?

15 A I don't know.

16 Q All right. Let me back up to the
17 priorities of DBHDD in 2015, which, as you've said,
18 was the year the Apex pilot was launched.

19 Launching the school-based mental health
20 program became one of the priorities for you and
21 Commissioner Berry in his administration; is that
22 correct?

23 A I want to be clear, we started it as a
24 pilot, with the intent to learn, one, was it going
25 to be effective, was it going to work, all of that.

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1 So we started it truly in the spirit of
2 this is a pilot, and then we'll take steps from
3 there.

4 Q How did the pilot work out?

5 A Well enough that we have continued the
6 program.

7 Q Has the program become an important
8 priority of yours as Commissioner of DBHDD?

9 A Yes.

10 Q So going back to the pilot era.

11 MS. COHEN: I'm going to mark the next
12 exhibit.

13 Is it 361, Wanda?

14 THE COURT REPORTER: Yes.

15 MS. COHEN: A presentation made on July
16 14th, 2015.

17 (WHEREUPON, Plaintiff's Exhibit-361 was
18 marked for identification.)

19 BY MS. COHEN:

20 Q I'll give you a chance to look at it.
21 This is a presentation with the logo of DBHDD with
22 the Bates Nos. GA00099111, and the individual pages
23 are numbered .1 through .20, and the title page is
24 "Behavioral Health Planning and Advisory Council,
25 Judy Fitzgerald, DBHDD Chief of Staff, Evergreen

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1 Conference Center, Stone Mountain, Georgia, July 14,
2 2015."

3 Here is one for you.

4 MS. COHEN: Here is one for you, Josh.

5 MR. BELINFANTE: Thank you.

6 MS. COHEN: I think we'd all like to be at
7 a Stone Mountain conference.

8 THE WITNESS: How old this is.

9 BY MS. COHEN:

10 Q Can you identify this Exhibit 361,
11 Commissioner?

12 A I see that you have put it before me. I
13 don't, don't recall, but I bet looking through this
14 will bring back some memories.

15 Q Take a minute.

16 (Witness reviews exhibit.)

17 A It looks like I have a second one.

18 Q You want to give one to Monica?

19 A I'd be happy to.

20 Q Thank you.

21 Does flipping through the presentation
22 remind you of giving this presentation?

23 A Yes.

24 Q Is this a presentation that you wrote and
25 delivered on July 14, 2015, to the best of your

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1 memory?

2 A It appears that way.

3 Q And what was the occasion?

4 A Looks like I was delivering to the
5 Behavioral Health Planning and Advisory Council,
6 which is a federally designated group that the State
7 is required to have a Planning and Advisory Council
8 to oversee its behavioral health work.

9 So they are an important group of
10 stakeholders in the State.

11 Q When you say it's required by the Federal
12 Government, do you mean that the Behavioral Health
13 Planning and Advisory Council is required by
14 Medicaid or by the requirements of federal grants?

15 A By SAMHSA federal grant.

16 Q By the federal grant.

17 A Our block grant requires us to have a
18 Planning and Advisory Council.

19 Q And is it the same as the Behavioral
20 Health Coordinating Council established by statute?

21 A No. Entirely different.

22 Q Another group?

23 A Yes.

24 Q And when was that formed?

25 A This?

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1 Q The Behavioral Health Planning and
2 Advisory Council, when was that formed?

3 A I track it as a requirement of receiving
4 your federal block grant. So that's the money that
5 we get from the Federal Government to deliver mental
6 health and substance abuse services.

7 When you receive that money from SAMHSA,
8 and it's a significant portion of funds from the
9 Federal Government, you're required to have an
10 appointed Planning and Advisory Council to provide
11 support and -- I don't want to use the word
12 "oversight," but that is who we present the
13 implementation of our block grant, to this body.

14 Q And does SAMHSA have certain requirements
15 for who will serve on the Advisory Council?

16 A Yes.

17 Q And what are they?

18 A I no longer know that level of detail.

19 Q Do you recall that it includes providers
20 of behavioral health services?

21 A Yes.

22 Q And does it also include advocacy groups?

23 A Yes.

24 Q Are you familiar with the term "protection
25 and advocacy organization"?

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1 A I am.

2 Q Is the P&A -- it's sometimes referred to
3 as P&A? Have you heard that?

4 A Yes.

5 Q Are they part of the Behavioral Health
6 Planning and Advisory Council?

7 A I don't recall.

8 Q How many people was it, approximately?

9 A I'd say somewhere around 15, 20 people
10 maybe were on the actual council.

11 Q The same group as in place now with regard
12 to DBHDD's SAMHSA grants, correct?

13 A Yes.

14 Q Who are the members who you're aware?

15 A Some of the same categories you have
16 described. So providers, advocates, people with
17 lived experience are represented, people with
18 interest in child and adolescent services, substance
19 abuse professionals.

20 So -- but I can't -- I don't know the
21 entire group.

22 Q So it's fair to say you were speaking to
23 an audience of interested stakeholders in the
24 behavioral health world?

25 A Yes.

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1 Q And you were the chief of staff at that
2 time?

3 A Yes.

4 Q Now, harking back to what you said
5 previously, there's a reference here on Page 2 to
6 "Vision. Easy access to high-quality care that
7 leads to a life of recovery and independence for the
8 people we serve"?

9 A Yes.

10 Q Whose vision was that?

11 A That vision statement was developed I
12 think in the -- within the first two years of
13 Commissioner Berry's administration.

14 Q And it was one that you endorsed as well
15 as his deputy commissioner?

16 A We had an executive group that
17 participated and defined and ultimately came to
18 consensus on a vision and mission statement.

19 Q And when you refer to "easy access to
20 care," school-based mental health services is one of
21 the avenues that you refer to; is that correct?

22 A Yes.

23 Q And the -- I'm going to go back and ask
24 you a little bit about Gwinnett Rockdale Viewpoint,
25 and KidsNet.

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1 What community service providers were
2 involved on those grants?

3 A I'm sorry, I didn't hear the question.

4 Q I think you testified earlier that there
5 were school-based mental health grants to Viewpoint
6 and its predecessors?

7 A No, not that I'm aware of.

8 Q I'm sorry, I misspoke.

9 I think you testified earlier that there
10 were grants to Viewpoint and its predecessors that
11 enabled the provision of school-based mental health
12 services in Rockdale County?

13 A I don't know about that in Rockdale
14 County. When we received the System of Care grant,
15 we endeavored to bring some --

16 Q Got it.

17 A -- services into the school setting but
18 were largely unsuccessful.

19 Q But thereafter, Viewpoint was more
20 successful in growing a System of Care model through
21 KidsNet; correct?

22 A There were elements of the System of Care
23 model that we brought to fruition through KidsNet.

24 Q And who were the principal community
25 service providers who were involved in that effort?

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1 A So Viewpoint Health was the lead agency,
2 and we partnered with -- my recollection is the DFCS
3 office and the local Department of Juvenile Justice
4 office. I don't remember much beyond that.

5 Q So it's fair to say that Viewpoint Health
6 is a pioneer in the System of Care services for
7 children and adolescents in Georgia?

8 A Yes.

9 Q And when you and Commissioner Berry came
10 to the administration in 2012, that was the
11 experience you brought with you?

12 A Part of the experience, yes.

13 Q Now, there's also a reference on the other
14 side of the slide to "Mission. Leading an
15 accountable and effective continuum of care to
16 support Georgians with behavioral challenges, and
17 intellectual and developmental disabilities in a
18 dynamic healthcare environment."

19 What do you refer to -- how do you
20 understand continuum of care? What are you
21 referring to there?

22 A We generally use the word "continuum" to
23 reflect an array of services that might go from
24 early screening, early identification, intervention,
25 all the way up to more intensive and what we call

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1 late intervention across a spectrum.

2 Q It's called a -- you refer to it as a
3 continuum of care. Is an element of it that there
4 might be movement for an individual client from one
5 place on the spectrum to another?

6 A Yes. And that's the general -- federal
7 nomenclature, too, would be to call it a continuum
8 of care. We didn't invent that. That's what's
9 described nationally.

10 Q Now, the next slide, Slide 3, refers to
11 Phase I and Phase II, and these are your words:
12 "What you will hear today, Review of Phase I,
13 Re-organization, and Preview of Phase II."

14 What are you referring to here? What was
15 Phase I? Was that a year of listening?

16 A Yes.

17 Q Now, this is being given in 2015?

18 A Uh-huh.

19 Q So you had been at the department for more
20 than a year; isn't that right.

21 A Uh-hum. (Affirmative.)

22 Q So did Phase I last for more than a year?

23 A I think so. Yes.

24 Q I think you said there were initially two
25 years of --

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1 A Look and listen before we made any drastic
2 changes.

3 Q So 2015 was really the year when you were
4 kicking things off?

5 A It looks that way.

6 Q Is that your memory?

7 A Yes. Yeah, it probably was about two
8 years of, of kind of the look and listen. And then
9 -- so that takes us up to 2014. And then
10 contemplating a reorganization of the department,
11 which was pretty significant.

12 Q And what was the reorganization?

13 A I'm referring to Slide 11, so I can --

14 Q Sure. Absolutely.

15 A -- look back exactly at how I said it.

16 So one of the things -- look and listen,
17 again, I want to give the context that when we came
18 in, the experience that we had was specific to being
19 a single community provider entity. And so you
20 think there are a lot of ways you can fix the
21 universe when you sit in your seat at the local, and
22 when you come to the state, when you have statewide
23 responsibilities, your perspective changes a little
24 bit because you understand some of the constraints
25 and guidance that a state agency has to attend to as

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1 it thinks about transformation.

2 Q So is that what you're covering in -- is
3 that was learned in the listening phase? Is that
4 what you're covering here -- was covered here in
5 Slide 4 and 5?

6 A Yes.

7 Q And what did you learn in the year of
8 listening? I know that your first title is that you
9 heard some things that you didn't expect.

10 A Right. Again, we came with our own
11 individualized experience as a Community Service
12 Board. We had limited interface, some but limited
13 interface, with the hospital system. At DBHDD we
14 only knew our, and we had some awareness of other
15 CSB experience, but there are many other providers
16 in the network.

17 And a lot of variation around the State is
18 dictated by geography. So there was a lot to learn
19 about how other people were experiencing being a
20 DBHDD contractor. And -- so you see that.

21 I think this was an accurate, overall
22 picture, people reporting some fragmentation. They
23 wanted to hear more, communication wasn't always
24 effective, and there were some great things
25 happening but inconsistent.

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1 This still rings true.

2 Q What were the pockets of excellence that
3 you referred to in 2015?

4 A None come to mind that I can say
5 specifically or that I can assure you were related
6 to 2015.

7 What my experience was that many
8 providers, and I was more familiar with the CSBs,
9 often had a signature project or program that they
10 did really well. It wasn't always easy for others
11 to replicate but many of them had one that was
12 really good and was receiving state level
13 recognition.

14 Q So was it one of your goals to make those
15 pockets of excellence more consistent across the
16 system?

17 A Where it seemed possible in a program or
18 initiative was scalable, I'd always be interested in
19 hearing was that possible.

20 Sometimes they were the result of very
21 specific local infusion of funds that you couldn't
22 rely what's going to happen in another setting. So
23 it really varied throughout the state.

24 Q Now, in your Slide 4 you refer to what
25 providers were saying about DBHDD. What were they

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1 saying?

2 These are the CSBs primarily?

3 A Some -- lots of other -- there were lots
4 of other providers outside of the CSBs.

5 So I think typical -- you know, what I now
6 understand is typical network provider complaints
7 that we don't get information in a timely way, it's
8 too hard to make changes, the bureaucracy is too
9 much. Pretty typical challenges of a provider
10 within a network.

11 Q And when you use the term "stakeholders"
12 on that same Slide 4, who are you referring to?

13 A Some of those -- that might have been
14 individuals actually receiving services, but it
15 might have also been sister agencies or other folks
16 that we rely on to do our work.

17 Q So folks with lived experience?

18 A In some cases.

19 Q And advocacy groups?

20 A In some cases, yes.

21 Q And other state agencies?

22 A If we considered them stakeholders.

23 Q Now, the next slide is the mixed pictures
24 puzzle slide. Are you looking at that, Slide 5?

25 A Uh-hum. (Affirmative.)

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1 Q And there's a reference to five bullets:
2 Partnership, Communication, Accountability,
3 Credibility, Consistency.

4 I'm going to go out on a limb and say that
5 each of these applied to both the behavioral health
6 services and the developmental disability side?

7 A Yes, probably true. But I was speaking to
8 the behavioral health audience here. So yeah.

9 Q So you're talking about -- this is geared
10 to the behavioral health audience?

11 A Yes.

12 Q Thank you.

13 So let's look at some of the solutions
14 that you talk about in your PowerPoint.

15 The first is Partnership. Can't do this
16 alone, you say: "Only as strong as our provider
17 network."

18 What did you say on that subject at the
19 meeting?

20 A So of course I don't remember my exact
21 language, but I probably would have said something
22 to the effect of DBHDD as the contracting body and
23 authority sets forth policy and programmatic vision
24 and goals, but it's actually in the delivery of
25 those services where people's needs are met.

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1 So DBHDD, you can have a great plan on
2 paper and a great policy manual, but it's actually
3 in the delivery of services that people achieve
4 recovery.

5 So we need our provider network. They're
6 critical partners.

7 Q And that's also captured on the slide
8 where it says "Need cooperative relationships with
9 other agencies and advocates"?

10 A Uh-hum. (Affirmative.)

11 Q The next bullet says: "DOJ is not the
12 enemy."

13 Does that refer to the Department of
14 Justice?

15 A Yes.

16 Q And my employer.

17 And does that refer to the -- a particular
18 initiative by the Department of Justice?

19 A So I'm certain that at this point in time
20 in 2015 this comment would have been in relation to
21 our ADA settlement agreement, and the general
22 feeling in many circles was that DOJ was beating the
23 State up and we're at war with DOJ, and my belief in
24 the role that I was in was that it was going to be
25 more productive to talk about the things that we

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1 wanted, that were not that different than I
2 perceived that the good folks at DOJ wanted.

3 So I thought it was important to make it
4 clear that that was the approach that our
5 administration was going to take; that there are
6 cooperative interests and it's better to think of it
7 in that way.

8 Q And that was, that was also at the time of
9 the DOJ investigation of GNETS?

10 A That probably did not rise to my awareness
11 at that time.

12 Q But with regard to the DOJ investigation
13 of GNETS, are there aspects in which you think that
14 you and the Department of Justice, you DBHDD, and
15 the Department of Justice, shared the same vision?

16 MR. BELINFANTE: Object to the form.

17 A I can't speak to that through the lens of
18 GNETS.

19 Q Fair enough.

20 When we were talking about a shared vision
21 with the Department of Justice in so far as it
22 related to what you called the ADA case and access
23 for adult mental health services, was part of the
24 vision that you shared with the Department of
25 Justice the System of Care approach?

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1 A We don't use that term. Sorry if this
2 sounds technical. That's a term that we used --
3 that we use and is the nomenclature for child and
4 adolescent services. That term isn't generally used
5 for adult services. Not that --

6 Q Is the term with regard to adult services
7 integrated health systems?

8 A It wasn't at that time.

9 Q What was it at time?

10 A A continuum of care.

11 Q So was the notion of a continuum of care
12 something that you were saying that DBHDD might
13 share with the Department of Justice?

14 A Yes. Continuum of care and serving people
15 in the least restrictive environment I think were
16 the things -- that we wanted to have community
17 services available and that we wanted people to be
18 able to access them, that we were not in opposition
19 to.

20 Q Was there another aspect to this,
21 Commissioner?

22 Am I correct the Carter Center had been an
23 advocate for evidence-based practices?

24 A I would assume they would be.

25 Q And so was using evidence-based practices

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1 also an element of the common vision that you saw in
2 2015 between the Department of Justice and DBHDD?

3 A I can certainly say that's DBHDD's intent,
4 is to use evidence-based practices.

5 Q Now, looking at Slide 8, it refers to
6 Accountability. The first bullet is "Problems" and
7 the second bullet is "Solutions."

8 Do you see that?

9 A Yes.

10 Q You've mentioned accountability earlier
11 today. You established -- I think you said you
12 established a separate division or section of
13 accountability?

14 A That was an office already when we came to
15 DBHDD. So we didn't --

16 Q What were the accountability issues that
17 you were talking about to this group then in
18 connection with the System of Care grant?

19 A It was well beyond the System of Care
20 grant. So accountability in -- probably in this
21 setting just refers to we as an agency are
22 contracting with providers to deliver services. So
23 to ensure fidelity to the services that are being
24 delivered and ultimately to ensure that people are
25 receiving services and those services are in fact

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1 helping people to move towards recovery.

2 Q And what were the solutions that you
3 talked about on that day?

4 A So you see there the development of KPIs.
5 That's key performance indicators for providers.

6 So, again, it's not -- it wasn't enough
7 just to say here's your money, go and do good work.
8 We had benchmarks, key performance indicators and
9 then benchmarks that we would be measuring to assess
10 whether providers were delivering the care as
11 outlined in the contract.

12 The second one is a transition to fee for
13 service.

14 Q Before we get there, can you give me an
15 example of some KPIs?

16 A Sure. So in behavioral health service
17 delivery you would want -- if a person calls a
18 provider and says they want -- they think they want
19 to come and receive services, you should have their
20 first appointment scheduled by X period of time.
21 That would be a key performance indicator. What
22 percentage of people who call this agency and desire
23 services can get their first appointment within
24 three days.

25 Q Understood.

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1 And who developed those metrics, the key
2 performance indicators?

3 A DBHDD. With input -- with some input from
4 providers as well. Probably led my Monica Johnson.

5 Q Now, I'm going to move along a little bit
6 because of time.

7 So let's go to Slide 10.

8 I'm sorry. It's Slide 9.

9 And this is another slide in which you
10 talk about the problem and solutions?

11 A Uh-hum. (Affirmative.)

12 Q And one problem was perception that DBHDD
13 does not deliver on promises or is not trustworthy.

14 What did you say that on subject?

15 A Probably, again, not remembering my exact
16 language, but in the listening efforts, you know,
17 when you accept open feedback from folks you hear
18 that not everything is going how people in the
19 community want it to. So I was careful here in
20 saying there was a perception that at times DBHDD
21 didn't deliver on their promises or perception that
22 DBHDD is not trustworthy.

23 It was important to acknowledge back to
24 this audience that we hear you, that you don't think
25 it's always going well in the partnership.

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1 Q Were there certain promises or areas in
2 which DBHDD was regarded as not having kept up its
3 end of the bargain at that time?

4 A I don't recall at that time what I was
5 speaking to specifically.

6 Q What do you see as the solutions? Or what
7 did you see as the solutions?

8 A So embracing our role as state authority.

9 Q What does that mean --

10 A Probably in using that terminology at that
11 time, it would be to assert that DBHDD has expertise
12 in its understanding of evidence-based behavioral
13 health services and supports, and that we would
14 endeavor to make those available and --

15 Q How did you, how did you see that
16 expertise as important to your credibility with
17 stakeholders?

18 A So among the stakeholders are people who
19 are familiar with evidence-based services and
20 supports that are known nationally. So I think what
21 I'm trying to reflect here is just we as an agency
22 would assert that knowledge and expertise in
23 conversations and in thinking about program design
24 and what's available in the State of Georgia. That
25 we understood that as our responsibility and that we

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1 would embrace opportunities to bring ideas forward.

2 Q So you understood it's your responsibility
3 to bring expertise forward with regard to the use of
4 evidence-based practices?

5 A Yes.

6 MR. BELINFANTE: Object to the form.

7 Q And then the next slide, Slide 10, refers
8 to CSB legislation?

9 A Uh-hum. (Affirmative.)

10 Q What was that?

11 A I believe we did some tweaks that year in
12 enhancing CSB accountability through legislation.

13 Frankly, I don't remember the details at
14 that time, from 2015 or 2016, of what we actually
15 changed.

16 Q Let's look at Slide 12. This is the slide
17 that's titled "DBHDD's Reorganization: What."

18 The first bullet is "Functional
19 alignment." What was the functional alignment that
20 you saw needed to be reorganized?

21 A So when we first arrived at the department
22 there were regional offices in each of the divided
23 regions of -- the State was divided into regions.
24 There were -- there was a DBHDD office in each of
25 those regions, and they would -- those offices would

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1 carry out a variety of functions for the local
2 region.

3 That led to some variation in how things
4 happened in Region 1 versus how they happened in
5 Region 6. So we decided to align the function. So
6 that if you are in the accountability chain, no
7 matter where you sit you report into the
8 accountability chain, not just to your regional
9 director.

10 We felt like we would get better
11 consistency if we did that.

12 Q And has that in fact been the case?

13 A That's my experience.

14 Q And then there's reference to "concern
15 about CSB administration infrastructure and
16 inconsistency is also a concern at DBHDD."

17 What topic were you speaking to,
18 Commissioner?

19 A Always the CSB network has had a great
20 deal of variability in its local delivery of
21 service. So some would be doing well, others were
22 more challenged. That's the inconsistency that I
23 was referencing.

24 And in my role, in administrative
25 leadership at the department, the CSB administrative

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1 infrastructure references that every CSB had a COO,
2 a CFO, a director of HR, carrying out those local
3 functions, had a fair amount of administrative
4 infrastructure, and that that was duplicated
5 throughout the State in each of the providers.

6 So always wanted CSBs and others to be
7 looking at that administrative infrastructure to run
8 the delivery of service programs.

9 Q To make it more standardized?

10 A Standardized.

11 Q And how did the department do that? Was
12 it through regulations or --

13 A We did not end up activating anything at
14 that time around that issue.

15 Q There's a reference in the second-to-last
16 bullet, "Go-live date July 1."

17 What does that refer to?

18 A Go-live date of the reorganization.

19 People would be in the new roles as of July --
20 probably were -- went live July 1st.

21 THE VIDEOGRAPHER: Frances, can we take a
22 quick break?

23 MS. COHEN: Sure.

24 THE VIDEOGRAPHER: We're off the record at
25 12:12 p.m.

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1 (A luncheon recess was taken.)

2 THE VIDEOGRAPHER: We're back on the
3 record at 1:03 p.m.

4 BY MS. COHEN:

5 Q I'm going to ask you about some terms that
6 we've been throwing around a little bit, and I want
7 to get a little more precise in terms of how you
8 understand them.

9 So we've been talking about evidence-based
10 practices, and that is -- is it your understanding
11 that that's a concept that's been pushed by SAMHSA
12 of recognizing the best available scientific
13 evidence, identifying practices for which there's
14 the best scientific evidence?

15 A Yes.

16 Q And there's also the notion that the
17 practices have been replicated across different
18 groups?

19 A Yes.

20 Q In terms of federal laws that you have to
21 abide by, like Medicaid or the grant rules, is there
22 a requirement that a practice has to be evidence
23 based?

24 MR. BELINFANTE: Object to the form.

25 A What do you mean by a requirement?

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1 Q I mean I know you were talking about some
2 of the requirements that led you to form the
3 Behavioral Health and Advisory Council. Are there
4 similar requirements that relate to evidence-based
5 practices?

6 A So the designation of evidence based for
7 us comes through SAMHSA, Substance Abuse and Mental
8 Health Services Administration, but I want to add
9 that in the delivery of services that are Medicaid
10 billable CMS would be the regulatory body that would
11 determine whether the provision -- a service would
12 be allowable.

13 And the description of detail about that
14 is guided by the center for Medicaid and Medicare
15 services.

16 Q So what does SAMHSA require with respect
17 to evidence-based practices?

18 MR. BELINFANTE: Object to the form.

19 Excuse me.

20 A I wouldn't describe it as what SAMHSA
21 requires, but they put forward the repository of
22 what evidence -- what practices, programs have
23 achieved that status, but they don't -- but in your
24 block grant, when we receive federal funds from the
25 Feds, it doesn't say you must do all of these

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1 evidence-based programs.

2 So that's why I'm distinguishing. It's
3 not a requirement, that because it exists in the
4 repository of evidence-base that you must therefore
5 do that when you receive funding. But you can't
6 just make up your own services, particularly if
7 they're Medicaid billable.

8 Again, that's why I'm making the
9 distinction CMS puts forward an array of options
10 that they deem acceptable for Medicaid billing.

11 Q Is there a concept of well-supported
12 practices?

13 A The term we've used or I'm more familiar
14 with is promising practices.

15 Q Promising practices are programs that
16 include some practices based on programs that
17 include some measurable result but there's not
18 enough evidence yet to call it an evidence-based
19 practice?

20 A That's my understanding.

21 Q And have you heard promising practices and
22 well -- and evidence-based practices referred to as
23 well-supported practices?

24 A That's not familiar terminology to me.

25 Q And I think we've already talked about

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1 System of Care, and that is, as you mentioned,
2 actually been the subject of legislation in Georgia?

3 A Yes.

4 Q And were you part of the design of that
5 legislation?

6 A No.

7 Q No. You're familiar with the statute,
8 though?

9 A Yes.

10 Q 495-5, Sections 220 and following?

11 A If you say.

12 Q Okay. And then we've talked about the
13 concept of a single state authority.

14 A The term I've referenced is the behavioral
15 health authority.

16 Q The behavioral health authority?

17 A Uh-hum. (Affirmative.)

18 Q And how do you understand that term?

19 A That DBHDD in its role as the behavioral
20 health authority has the technical expertise to
21 advise on matters related to behavioral health,
22 which is one component of how decisions get made but
23 we have the technical expertise.

24 Q And under the Georgia statute there's also
25 a requirement to the System of Care plan; is that

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1 right?

2 A Yes.

3 Q And I know there is a plan drafted in
4 2010. Are you familiar with that?

5 A I probably have seen it at some point and
6 it was probably a three-year-plan-ish, that would
7 have covered --

8 Q So which System of Care plans have you
9 participated in designing during your tenure at
10 DBHDD?

11 A I have not participated in the design of
12 the plan for any of the plans that have existed.

13 Q Fair enough. Which, which of the System
14 of Care plans have you provided oversight for during
15 your tenure at DBHDD as deputy commissioner and then
16 as chief of staff and now as Commissioner?

17 A The System of Care plans that I'm
18 referencing are sort of the -- they're generally a
19 three-year window. So any that were in place during
20 the time that I've been at DBHDD.

21 Q Which is the most recent one?

22 A I'm not sure if I'm correct on the years
23 here, but we -- I think there's one that covers 2020
24 to 2023.

25 Q And as a member of the public, where is

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1 the best place for me to find that?

2 A The best place would be the Georgia State
3 University Center of Excellence website. They are
4 contracted evaluator for System of Care activities.

5 MS. COHEN: And, Josh, we just ask that
6 the State provide us with one. I don't think
7 it's controversial.

8 MR. BELINFANTE: For all of these, if you
9 all could just send me an email.

10 MS. COHEN: Absolutely.

11 MR. BELINFANTE: Great.

12 BY MS. COHEN:

13 Q And we talked about the Behavioral Health
14 Advisory Council in connection with the SAMHSA
15 behavioral health grants. Is there also a
16 Behavioral Health Collaborative Council?

17 A It's called the Behavioral Health
18 Coordinating Council.

19 Q Coordinating. Thank you.

20 A Uh-hum. (Affirmative.)

21 Q And that is the board or committee that
22 oversees public or private agencies providing
23 behavioral health services?

24 A It's a council designated in law that
25 consists of several state agencies, also has

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1 representation of individuals receiving services.

2 They are not -- they are an advisory council.

3 They're not --

4 Q So there are various stakeholders
5 included?

6 A Yes.

7 Q And was that required as a condition of
8 the 2010 settlement with the United States?

9 A It's my understanding that the -- if I can
10 use BHCC -- that the Behavioral Health Coordinating
11 Council, that that was established when the
12 department was established in 2009.

13 Q And does that body also play any role in
14 connection with the federal grants that you receive?

15 A Tangential. Let me describe.

16 A subcommittee of the Behavioral Health
17 Coordinating Council is the IDT, the Interagency
18 Directors Team.

19 That is the body that leads the production
20 of the State's System of Care Plan.

21 Q I see.

22 A So it comes -- when IDT creates either --
23 anything related to The State System of Care Plan,
24 they present it to the Behavioral Health
25 Coordinating Council for approval. So that's the

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1 relationship.

2 Q Understood.

3 What about if there's a conflict?

4 The Interagency Directors Team includes
5 some of the stakeholders you've talked about
6 previously, right, state agencies?

7 A Yes.

8 Q Advocacy groups?

9 A Yes.

10 Q And people with lived experiences?

11 A Uh-hum. (Affirmative.)

12 Q What happens if there's a conflict among
13 the various members of the IDT, how is that
14 resolved?

15 A I don't have direct knowledge of that.

16 Q You haven't seen that.

17 And were you a chair of the IDT?

18 A No.

19 Q Has anyone from DBHDD chaired the IDT?

20 A Yes.

21 Q Who?

22 A Dante McKay did for a period of time.

23 Monica Johnson, I believe, both previously
24 and currently chairs the Executive Committee of the
25 IDT, which is not the same as chairing the IDT.

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1 There's a larger body. I believe Monica has only
2 chaired the Executive Committee.

3 Q What agencies are represented on the
4 Executive Committee?

5 A I should say I think it's individuals and
6 not agencies by designation.

7 Q I see.

8 A So I know in recent memory there's been a
9 Department of Justice -- I'm sorry. Department of
10 Juvenile Justice representative, a Department of
11 Education representative, and DFCS representative,
12 and then an advocacy representative.

13 Q Who is the advocacy representative?

14 A In the past it was Voices for Georgia's
15 Children, and Erica Fener-Sitkoff was the executive
16 director. She has since departed Georgia.

17 Q And who is the representative in recent
18 memory of the Department of Education?

19 A I don't remember her name. It will come
20 to me but at this moment I don't remember her name.

21 Q So I just also want to circle back on the
22 concept of school-based mental health services, and
23 I think you said the goal is to enable students and
24 families to participate in the communities in which
25 they live and receive services there?

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1 A That's a goal.

2 Q And it also refers, as you've said, to the
3 concept of collaboration among agencies providing
4 behavioral health services?

5 A Not specific to Apex?

6 Q Yeah.

7 A Just want to make sure I'm distinguishing
8 here.

9 Apex is at the heart and really
10 importantly a local partnership between the school
11 and the local community behavioral health provider.
12 Less state agency involvement.

13 Q So do you consider GNETS to be a
14 school-based mental health service?

15 A I do not, but it is not a program we
16 administer, so I don't know how it's characterized
17 by DOE.

18 Q My question is do you, Commissioner,
19 consider GNETS to be a school-based mental health
20 service?

21 A I don't know. I haven't thought about it
22 in that way.

23 Q Well, what are the characteristics of
24 school-based mental health services?

25 MS. COHEN: Strike that. Let's move on.

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1 BY MS. COHEN:

2 Q So GNETS, you've said, provides behavioral
3 health services to children and adolescents,
4 correct?

5 A As I understand it, behavioral health
6 services and supports.

7 Q Do you distinguish between services and
8 supports?

9 A I do.

10 Q What are behavioral health services?

11 A In our language, services usually
12 references more directly clinical therapeutic
13 services. Supports might be behavioral assistance
14 and functional assistance.

15 Q You've heard of functional behavioral
16 assessments?

17 A Yes.

18 Q Is that a behavioral health service?

19 A I consider it a behavioral service.

20 Q And I think you said you didn't know what
21 behavioral health services GNETS provides?

22 A Correct.

23 Q What diagnoses does the GNETS system
24 serve?

25 A I do not know.

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1 Q Do you have any information?

2 A Very limited.

3 Q What does it tell you?

4 A That individuals who need support to be in
5 a learning environment because of their emotional,
6 behavioral or other related issues are receiving
7 services in those settings.

8 Q Did you have any knowledge of GNETS before
9 you came to DBHDD?

10 A I don't believe I did.

11 Q Do you know any clinicians who worked at a
12 GNETS center?

13 A I do not.

14 Q Or a classroom, GNETS classroom?

15 A No. Not that I'm aware of.

16 Q And as chief of staff, you had no
17 involvement with GNETS?

18 A Not until -- had some awareness of the
19 program as it existed, but did not have any direct
20 involvement in oversight or influence or -- it was a
21 program that the Department of Education ran. We
22 were not integrally connected to it.

23 Q Sounds like you weren't even tangentially
24 connected to it?

25 MR. BELINFANTE: Object to form.

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1 A Minimal is I guess what I would say across
2 child-serving agencies.

3 Q Are you aware of the approximate size of
4 GNETS' annual grant from the legislature?

5 A No.

6 Q If I said \$70.00 million to you, is that a
7 ballpark number?

8 A I don't have a way to reflect that.

9 Q What role does DBHDD play in the provision
10 of behavioral health services to GNETS students?

11 A None that I'm directly aware of.

12 Q Have you ever discussed any aspect of
13 GNETS with Dante McKay?

14 A Not in recent memory.

15 Q At any time?

16 A None that I can recall.

17 Q Did you ever suggest to Dante McKay that
18 OCYF limits interactions with GNETS?

19 A No.

20 Q Did you ever discuss with Dante McKay any
21 collaboration between GNETS and DBHDD?

22 A None that I recall.

23 Q Have you had any discussion -- have you
24 participated in any discussions with DOE about
25 collaboration between Apex and GNETS?

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1 A No.

2 Q Have you participated in any discussions
3 with any employee of DOE about coordination between
4 Apex and GNETS?

5 A None that I recall.

6 Q So has DBHDD ever been approached by GNETS
7 to coordinate on different aspects?

8 A Not that I --

9 MR. BELINFANTE: Object to the form.

10 A Not that I'm aware of.

11 Q DBHDD runs the System of Care Academy; is
12 that right?

13 A Correct.

14 Q What is that?

15 A The academy is the annual conference that
16 brings together people from around the State for
17 sort of a three- or four-day learning, CEUs
18 gathering.

19 Q What is the focus of the three- or
20 four-day learning/gathering?

21 A Sharing information, promoting best
22 practices, enhancing collaboration and coordination
23 and conversation among child serving and child
24 interested parties.

25 Q Has GNETS ever been included in the System

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1 of Care Academy?

2 A I don't know.

3 Q Let me show you another document. I just
4 wanted to make sure I didn't skip one.

5 This is an email having the Bates No.
6 GA01184034, from Commissioner Fitzgerald to Nakeba
7 Rahming.

8 Is that how you pronounce her name?

9 A I don't recall. Nakeba, Nakeba is
10 correct.

11 Q Dated September 16th, 2016.

12 MS. COHEN: We'll mark this as Exhibit
13 362.

14 (WHEREUPON, Plaintiff's Exhibit-362 was
15 marked for identification.)

16 BY MS. COHEN:

17 Q Here is one for you and one for counsel.

18 MR. BELINFANTE: Thank you.

19 (Witness reviews exhibit.)

20 BY MS. COHEN:

21 Q Have you had a chance to look it over?

22 A Yes.

23 Q And it says, quote: "Thank you for your
24 follow-up from the recent DOE/DBHDD meeting to
25 discuss GNets. We are eager to remain active and

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1 collaborative partners."

2 Is this an email that you wrote in
3 September of 2016?

4 A It appears to be.

5 Q In what sense were you, were you and your
6 staff at DBHDD active and collaborative partners
7 with GNETS?

8 A We had regular meetings with Clara Keith,
9 who would inform us of her activities with GNETS.

10 Q Anything further?

11 A Not that I recall.

12 Q Do you recall the meeting referred to in
13 your -- in the email to Nakeba?

14 A I don't. What I -- the context of this
15 makes me think that it was a transition from when
16 Clara was leaving to when Nakeba was coming into the
17 role, that we probably had a follow-up to the end of
18 Clara's tenure and we were welcoming Nakeba into the
19 role that Clara had held.

20 Q Well, let's back up.

21 What was Clara Keith's title at the
22 Department of Education?

23 A I don't know.

24 Q What was her role?

25 A I can't speak to her role at the

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1 Department of Education. She became a DBHDD
2 employee some time --

3 Q What role -- did Nakeba step into a role
4 that was vacated by Clara Keith?

5 A Yes.

6 Q And what was that role?

7 A I don't know what the formal title was.

8 Q That's okay.

9 A Clara was our -- she was pursuing GNETS
10 improvements and was reporting monthly on what was
11 happening in that effort to DBHDD.

12 Q I'm still confused. Did you say Nakeba
13 Rahming stepped into a role that was vacated by
14 Clara Keith?

15 A Yes.

16 Q What role was that?

17 A So Clara's role as liaison -- so Clara's
18 role, whatever she did at DOE, I don't know what the
19 title was, she was involved in GNETS. Then she
20 stepped in at DBHDD and continued with her GNETS
21 technical assistance and improvement efforts. She
22 did that for some period of time. And then it's my
23 -- I believe my recollection is that she retired and
24 Nakeba was the person appointed to come in and
25 continue in that role of GNETS connectivity.

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1 Q And so did Nakeba Rahming work for DBHDD?

2 A I actually don't believe she did.

3 Q Is it fair to say then that Nakeba Rahming
4 fulfilled the same role that Clara Keith had
5 fulfilled at DBHDD but she remained at DOE while she
6 was doing that?

7 A That's possible. I don't recall,
8 actually.

9 Q Who paid Clara Keith's salary when she was
10 at DBHDD?

11 A I'm not sure. I would think DBHDD did,
12 but I'm not sure.

13 Q What were the reasons for her hiring Clara
14 Keith since DBHDD had no role essentially, as you've
15 described it, with GNETS?

16 A I don't recall.

17 Q Who did she report to?

18 A I don't remember technically. What I do
19 recall is -- what I recall was monthly meetings
20 where she -- Clara would meet with Commissioner
21 Berry, Jeff Minor, and myself.

22 I don't remember where it fell on the
23 actual org chart.

24 Q Yeah. Let's look at Exhibit 4, which I
25 know is imperfect, but that's what I have. It's

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1 this --

2 A The structure?

3 Q Yes. Where exactly within the DBHDD
4 organizational structure did Clara Keith sit?

5 A As I mentioned, I don't recall what the
6 formal reporting structure was. As I recollect,
7 when she would provide updates, it would be to
8 myself, the Commissioner, and Jeff Minor.

9 Q Did she report to Dante McKay at OCYF?

10 A No.

11 Q Did she report to Monica Johnson in the
12 Behavioral Health Division?

13 A I don't believe so.

14 Q So she would meet with -- I'm sorry,
15 Commissioner Berry, and who else?

16 A Myself and Jeff Minor.

17 Q Jeff Minor.

18 And over what period of time was this?

19 A Honestly, I do not recall that.

20 Q What responsibilities did she have at
21 DBHDD?

22 A I don't recall her having any specific
23 responsibilities outside of facilitating and
24 providing technical assistance and performance
25 improvement activities with GNETS.

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1 Q And what was the nature of the technical
2 assistance that she provided to DBHDD with regard to
3 GNETS?

4 A I'm sorry, she did not provide technical
5 assistance to us. She only reported her GNETS
6 technical assistance activity to DBHDD.

7 Q And what was the technical assistance that
8 she reported?

9 A That I don't recall. She was an education
10 expert, and none of us had that background. So it
11 was helpful for her to have that educational
12 experience and background when she was talking about
13 the work of GNETS.

14 Q How is it helpful to you, Commissioner, in
15 the performance of your duties either as chief of
16 staff or as Commissioner, to have the expertise that
17 Clara Keith provided?

18 A I did not have expertise in educational
19 settings. So hearing about GNETS work from someone
20 who was steeped in educational administration and
21 support was very helpful because there were many
22 aspects of -- many aspects of educational
23 administration that we, and certainly I, was not
24 familiar with.

25 Q So can you think of anything specific that

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1 Ms. Keith brought to you or to the meetings with
2 Commissioner Berry and Mr. Minor and yourself?

3 A No. I don't have good recollection of
4 that.

5 Q How long was she with DBHDD?

6 A I don't recall.

7 Q You say in your email, Exhibit 362: "We
8 are eager to remain active and collaborative
9 partners."

10 Do you see that?

11 A I do.

12 Q When you say "we," does that refer to
13 DBHDD?

14 A Yes.

15 Q And it's referring to a partnership with
16 DOE regarding GNETS?

17 A Presumably.

18 Q And so in what way was DBHDD a partner
19 with DOE regarding GNETS?

20 A Really, a recipient of information.

21 Q And do you recall what information that
22 was?

23 A I really don't.

24 Q Was the hiring of Clara Keith part of the
25 collaboration?

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1 A Yes.

2 Q Were there other -- any other elements to
3 it?

4 A None that I can speak to.

5 Q The email says that Monica and Dante --
6 that's Ms. Johnson and Mr. McKay?

7 A Yes.

8 Q Quote: "Will be our programmatic expert
9 participants in the technical discussions."

10 What technical discussions are you
11 referring to?

12 A I don't recall any specifically. That's
13 language I would use if they were going to have
14 further discussion about specific programmatic,
15 clinical and service delivery elements that are
16 beyond my expertise and knowledge.

17 Q As you sit here today, can you recall
18 which programmatic or clinical details were part of
19 a collaboration between DBHDD and DOE in 2016 with
20 reference to GNETS?

21 A No.

22 Q You also say that Amy Howell, your general
23 counsel, quote: "Will remain in the discussions as
24 well."

25 Did Ms. Howell also attend the meetings

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1 with Clara Keith that you've referred to?

2 A She may have on some occasions, but I
3 don't remember that consistently.

4 Q Well, what aspect of the discussions did
5 you anticipate that Ms. Howell participate in?

6 A Probably if there were strategic
7 conversations.

8 Amy also functioned as assistant
9 commissioner over the course of time. So she was
10 both general counsel and she would also be engaged
11 in strategic conversation.

12 Q So what strategic conversations are you
13 referring to when you say that Amy Howell will
14 remain in the discussions as well?

15 A Again, I think it was putting forward to
16 Nakeba, new to her role, if you're talking
17 programmatic and clinical details, Monica and Dante
18 are your people. If there's a larger conversation
19 where higher level folks are going to be involved,
20 Amy and I would be -- possibly be present for those.

21 MS. COHEN: Let me mark another one of
22 these emails.

23 This is an email chain. We'll mark it as
24 Exhibit 363, an email chain between Nakeba
25 Rahming and Dante McKay, from October of 2016.

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1 (WHEREUPON, Plaintiff's Exhibit-363 was
2 marked for identification.)

3 MS. COHEN: Why don't we take a
4 five-minute break.

5 MR. BELINFANTE: Sure.

6 THE VIDEOGRAPHER: We're off the record at
7 1:39 p.m.

8 (A recess was taken.)

9 THE VIDEOGRAPHER: We're back on the
10 record at 1:51 p.m.

11 MS. COHEN: Okay.

12 BY MS. COHEN:

13 Q Commissioner, thank you for your courtesy,
14 and to your counsel. We were having trouble finding
15 a copy of the exhibit, so we've projected it on to
16 the Zoom screen.

17 MS. COHEN: It is Exhibit 363, and it's
18 got the Bates-stamp GA00585313 to 314.

19 And it purports to be an email from Nakeba
20 Rahming to Dante, in October of 2016, and one
21 from Dante back to Nakeba Rahming.

22 BY MS. COHEN:

23 Q You see in the first email Ms. Rahming is
24 asking Mr. McKay to participate at a GNETS meeting
25 on October 18th in Milledgeville?

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1 A If you can scroll down. I can't see the
2 full of Nakeba's.

3 There we go. Thank you. Okay.

4 Okay, I see Nakeba's.

5 Q Were you aware of that meeting in
6 Milledgeville?

7 A I was not.

8 Q Do you know what she was talking about?

9 A I do not know any details about that.

10 Q And then Mr. McKay writes back.

11 A If you can scroll.

12 Q In the top email, which is October 6th.

13 Can you see it now?

14 A Uh-hum.

15 Q He writes back: "Following a meeting
16 attended by chief of staff Judy F. recently with the
17 DOE and DOJ attorneys, Monica will now serve as the
18 GNETS point person on behalf of DBHDD.

19 Unfortunately, the CYF team will not be joining you
20 in Milledgeville."

21 Were you aware of this communication at
22 the time?

23 A This is not familiar to me.

24 Q Is Mr. McKay accurately reflecting a
25 conversation with you that after a meeting with DOE

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1 and DOJ attorneys, Monica Johnson will now serve as
2 the point person on behalf of DBHDD?

3 A I don't recall a conversation about this.

4 Q Do you recall that -- does this refresh
5 your recollection that there was a switch in who the
6 contact person was from Dante and Monica Johnson to
7 just Monica Johnson?

8 A That's a detail I don't recall.

9 Q Was this discussed by you at a meeting
10 with the Department of Education and DOJ attorneys?

11 A If it was, I do not recall that
12 conversation.

13 Q Was Mr. McKay reluctant to serve as a
14 DBHDD point person for GNETS?

15 A Not that I'm aware of.

16 Q Did you ever hear that from anyone?

17 A No.

18 Q Did anyone from DBHDD attend a GNETS
19 meeting?

20 A Could you be more specific?

21 Q Yeah. It sounds from this email as though
22 it was a meeting at a DBHDD hospital perhaps in
23 Milledgeville? Are you familiar with the facility
24 in Milledgeville?

25 A I think it's unlikely that we would hold a

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1 meeting at the hospital in Milledgeville. So I
2 don't have any familiarity with this specific
3 meeting.

4 Q Okay.

5 MS. COHEN: I think I did miss one
6 exhibit. I'm going to give you a copy right
7 now and we can mark it as Exhibit 364.

8 (WHEREUPON, Plaintiff's Exhibit-364 was
9 marked for identification.)

10 MS. COHEN: It's stamped GA0043612 through
11 3623, and it's titled "SOC State Plan Pocket
12 Guide Terms," dated April 12, 2018.

13 BY MS. COHEN:

14 Q Here's a copy for you, Commissioner, which
15 I think Wanda will put a stamp on.

16 MS. COHEN: And here's a copy for you,
17 Jeff -- Josh.

18 MS. TUCKER: I've been called much worse.
19 (Discussion ensued off the record.)

20 BY MS. COHEN:

21 Q Can you identify this document,
22 Commissioner?

23 A By the title.

24 Q What is it?

25 A I know that we have -- DBHDD has often

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1 made efforts to make available to the public
2 descriptions of what our acronyms actually mean.

3 Q So you believe this is a document
4 generated by DBHDD?

5 A Or the System of Care. So the IDT group
6 were the creators of the System of Care plan, DBHDD
7 playing a role in that.

8 Q And it refers to children and adolescents
9 System of Care?

10 A It looks to, but some of these things are
11 broader than that, but...

12 Q So you believe it's a DBHDD document,
13 though, or IDT document?

14 A I see it as a System of Care -- so the
15 System of Care State Plan is a multipage document.
16 So in an effort for the public to understand some of
17 the terminology that's in the plan, I would guess
18 this is a ride-along, so to speak, a pocket guide,
19 so people could understand the terminology in the
20 state plan.

21 Q I just want to be clear. Do you believe
22 it was prepared by DBHDD or by the IDT?

23 A I can't say, actually. DBHDD certainly
24 would have informed it, as there are some DBHDD
25 specific programs, but some of these things are more

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1 general.

2 Q Let me ask you this, Items 12 and 13,
3 Blending of Funds and Braiding of Funds, are those
4 concepts that you're familiar with?

5 A Yes.

6 Q Are you a proponent of blending and
7 braiding of funds?

8 MR. BELINFANTE: Object to the form.

9 A I understand what they mean conceptually.

10 Q What does it mean?

11 A Well, as you see here, the blending -- and
12 these are terms that the Federal Government uses in
13 its conversations around System of Care.

14 So blending references where you use
15 different pots of money, and the braiding is when
16 those pots come together to support a program.

17 Q And how is that relevant to the System of
18 Care?

19 A In the delivery of services, different
20 financing mechanisms can sometimes lead to confusion
21 or fragmentation. So the idea that you would bring
22 these funds together in service of youth or family
23 meeting their needs, it's an ideal.

24 Q Are you a proponent to that concept?

25 A When it is possible.

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1 Q Have you found instances where it's
2 possible with respect to school-based mental health?

3 MR. BELINFANTE: Object to form.

4 A So in our Apex program we do have two
5 different pots of money at work towards achieving
6 successful implementation of Apex.

7 So to that degree we have state funds, and
8 then the provider, the community-based mental health
9 provider, can also bill Medicaid for some of the
10 services they deliver.

11 Q So that's an example of blending and
12 braiding --

13 A Blending.

14 Q -- of funds? Or blending?

15 A Uh-hum. (Affirmative.)

16 Q Do you know of any examples of braiding of
17 funds that are relevant to your programs at DBHDD?

18 A Not -- no.

19 Q I think I neglected to ask you, going back
20 to those meetings with Clara Keith, how frequently
21 were they?

22 A My recollection is monthly.

23 Q And how long did they last?

24 A You mean the meeting itself?

25 Q Yes.

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1 A An hour probably.

2 Q And who set the agenda for your meetings?

3 A Clara.

4 Q Were there written agendas?

5 A Not that I recall.

6 Q So just to be sure I'm understanding your
7 testimony, she reported to you and Mr. Minor and Ms.
8 Johnson?

9 A No. It is my -- I do not recall where we
10 landed her officially on the org chart or in
11 technical reporting.

12 What I do recall is the monthly meetings
13 were generally attended by myself, Jeff Minor, and
14 Commissioner Berry, and presumably Amy Howell was
15 possibly in some of those meetings as well.

16 Q So is that a direct line reporting
17 relationship to you and Commissioner Berry?

18 A I don't recall if we ever had an org chart
19 that reflected that.

20 Q Are you required as supervisor of a state
21 employee to prepare performance review plans on an
22 annual or bi-annual basis?

23 A Yes.

24 Q And who signed the performance evaluation
25 plans for Ms. Keith?

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1 A I don't recall having a performance
2 evaluation for Ms. Keith.

3 Q Well, apart from meeting with you all, was
4 there any work that she did at DBHDD that was
5 different from the work that she had done at DOE?

6 A Not that I recall.

7 Q I'm going to switch now to a different
8 email string. I'm going to put in front of you an
9 email dated June 19th, 2019, from Monica Johnson,
10 and it has the Bates-stamp GA00004807.

11 MS. COHEN: Here's one for you, Josh.

12 (WHEREUPON, Plaintiff's Exhibit-365 was
13 marked for identification.)

14 BY MS. COHEN:

15 Q So looking at Exhibit 365, starting at the
16 bottom, which is how we read emails in litigation --

17 A Sure.

18 Q -- the first one is an email dated May 28,
19 2019, at 11:44 a.m., Judy Fitzgerald wrote.

20 Do you recognize this as an email you
21 sent?

22 A Yes.

23 Q Do you recall sending it?

24 A No.

25 Q The email says, quote: "I want to make a

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1 recommendation to you that I believe will ultimately
2 strengthen the work we are trying to do because you
3 know we never do it alone."

4 Do you see that?

5 A I do.

6 Q And what was the suggestion that you made
7 to Mr. McKay?

8 A I suggested that he personally reach out
9 to Garry McGiboney from DOA -- DOE and Tom Rawlings
10 from DFCS to have a strategy update conversation, so
11 that they could be more knowledgeable about our Apex
12 program.

13 Q So prior to you writing your email to Mr.
14 McKay on May 28, 2019, had you heard from Mr.
15 Rawlings or Mr. McGiboney?

16 A Not directly.

17 Q Had you heard from them indirectly?

18 A I had heard that either of them were
19 making public comments about DBHDD services.

20 Q And what was the nature of those comments?

21 A What I recall is a frequent complaint that
22 Tom Rawlings, in his role as DFCS director, would
23 make that the CSBs were not serving youth in the
24 school settings. And I thought that should be
25 corrected.

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1 And I think Garry McGiboney in this
2 context was something similar, questioning whether
3 or not these services were actually being delivered
4 in the school setting, as the program was designed
5 to do.

6 Q Was the issue raised whether the CSBs were
7 providing services in the school setting location
8 versus clinic? Was that the issue?

9 A Yes. As I recall.

10 Q And who did you hear that from?

11 A That I don't recall.

12 Q And that was Mr. Rawlings' comment that
13 you had heard?

14 A And something similar from Mr. McGiboney.

15 Q What was Mr. McGiboney's title at the
16 time?

17 A Something -- some role at D -- he was in a
18 leadership role at DOE. I can't recall what his
19 title was.

20 Q Before you wrote to Mr. McGiboney, had you
21 raised with Mr. McKay the topic of keeping Rawlings
22 and McGiboney updated on the subject?

23 A Not that I recall.

24 Q Why did you think it was important to keep
25 these two gentlemen knowledgeable about the Apex

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1 program?

2 A Both DFCS and DOE are important partners
3 in the state for DBHDD, and so if leaders in those
4 departments are suggesting that the Apex program
5 isn't working as it was intended to, I thought it
6 was important that they hear directly from Dante,
7 who has full knowledge of what the program's
8 performance was, and that Dante reach out to them to
9 provide them with some data driven updates about
10 what actually was happening in the Apex program so
11 that we could avoid public commentary that was not
12 accurate.

13 Q Now, your email to Dante McKay is dated
14 May 28th, 2019. The email on top from Monica
15 Johnson to you is some three weeks later, dated June
16 19, 2019. Had you blind-copied your email to Mr.
17 McKay to Ms. Johnson, or how -- or did you forward
18 the email to Ms. Johnson?

19 A I don't recall.

20 Q But she had a copy of the email and wrote
21 you back about it?

22 A Yes.

23 Q And do you recall her email?

24 A I do not, but I see it here, and that
25 looks like a typical response.

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1 Q And she's referring to a supervisory
2 chain?

3 A Yes.

4 Q And at that time were you Ms. Johnson's
5 direct supervisor?

6 A Yes.

7 Q And she directly supervised Mr. McKay?

8 A Yes.

9 Q And Monica Johnson refers -- or says,
10 quote: "Adding this to my now really long
11 supervision list for our meeting, I'll be keenly
12 interested in the context behind what triggered this
13 email."

14 What meeting was she referring to?

15 A You mean when she says, "long supervision
16 list for our meeting"?

17 Q Yes.

18 A That would have been our one-on-one -- she
19 and I would meet one-on-one probably monthly at this
20 time, and so she had a -- she comes to me with a
21 list of things to be discussed. So I read this as
22 she's adding this to a list of things that she and I
23 should discuss.

24 Q Understood.

25 How long have you known Ms. Johnson at

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1 this time?

2 A Since I came to the department.

3 Q And is she someone you felt you could
4 speak openly with?

5 A Yes.

6 Q So what did you say to her on the topics
7 raised in this email?

8 A I can't recall the actual specific
9 language. I do recall the general context here.

10 Q Is that as you've recently described it,
11 that you had received --

12 A Yes

13 Q -- heard indirectly --

14 A Yes.

15 Q -- about complaints?

16 A Yes. Third-hand parties who heard either
17 Tom Rawlings or Garry McGiboney saying something
18 about we don't believe that the CSBs in particular
19 are doing what DBHDD is saying they're doing, which
20 is delivering schools -- services in the
21 school-based setting.

22 So I heard that. I have great trust in
23 Monica and her supervision of Dante, but my writing
24 to Dante would be an indication to everybody this
25 has reached my ears and I feel like it's important

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1 that we correct the record here.

2 Q Are you someone who is thought of as being
3 very discrete and disciplined in your emails?

4 A I hope so.

5 MR. BELINFANTE: Object to the form.

6 Q I'm trying -- what I'm getting at with
7 that question is Monica writes: "I am fluent in
8 Judy-speak so can read behind the lines."

9 A Between the lines.

10 Q Excuse me. "Between the lines."

11 Thank you

12 Do you know what she was referring to?

13 A I can't say other than, other than there's
14 clearly more to the story here, and she anticipates
15 when we're face-to-face we'll talk about that story.

16 Q Understood.

17 MS. COHEN: Now, I think there's one more
18 email in that chain, which is marked GA0012561.

19 We'll mark it as Exhibit 366.

20 (WHEREUPON, Plaintiff's Exhibit-366 was
21 marked for identification.)

22 BY MS. COHEN:

23 Q It's an email from Dante McKay to you
24 dated May 28, 2019, and it appends your email that
25 we've previously discussed.

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1 Here is a copy for you and a copy for
2 counsel.

3 Commissioner, can you identify this as a
4 copy of the email Mr. McKay sent in reply to your
5 email of May 28, 2019?

6 A Yes.

7 Q In his email Mr. McKay says he will reach
8 out to schedule 1:1s with Mr. Rawlings and Mr.
9 McGiboney.

10 Did he ever report to you that that had
11 occurred?

12 A Not directly me but --

13 Q Did you hear indirectly?

14 A Through Monica.

15 Q What did you hear?

16 A My memory of this is that data was
17 provided to both Mr. McGiboney and Mr. Rawlings to
18 demonstrate evidence that actually services were
19 being delivered in the school setting, and showed
20 specifically services delivered in the school
21 setting and when requested outside of the school
22 setting.

23 Q And did you reach out to anyone, Mr.
24 Rawlings or Mr. McGiboney, on this topic?

25 A Not on this topic, that I recall.

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1 Q I think you mentioned earlier that Layla
2 Fitzgerald has some DOE facing responsibilities?

3 A Yes.

4 Q What is her role at DBHDD?

5 (Pause.)

6 A I think that she's our liaison part-time
7 at DBHDD and part-time at DOE.

8 Q At the time when she became a liaison, was
9 she the program manager for the Apex program?

10 A I don't recall that detail.

11 Q What were the circumstances under which
12 she became part-time at DOE and part-time at DBHDD?

13 A I don't recall.

14 Q Does it refresh your recollection if I
15 suggest it was a request of DOE that they have
16 someone who could provide direct information about
17 the Apex program?

18 A Actually, described in that way is not
19 familiar to me.

20 Q Do you recall who paid her salary?

21 A I thought it was a joint contribution from
22 DBHDD and DOE equally.

23 Q Did you know that OCYF made it clear to
24 GNET -- to DOE that Ms. Fitzgerald wouldn't work on
25 any GNETS matters in her role as liaison?

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1 A No, that's not familiar to me.

2 Q That never reached you?

3 A No.

4 Q Would that be consistent with your
5 understanding of the purposes for which she was
6 part-time liaison to DOE?

7 A I can't say. That's just a level of
8 detail -- I don't really know what the expectation
9 was.

10 Q How did you hear she was going to be
11 part-time at DOE and part-time at DBHDD?

12 A I don't recall.

13 Q Did you learn of it from Monica Johnson?

14 A That seems probable given my regular
15 interface with Monica and my trust in Monica's
16 oversight of that very large division.

17 Q Do you recall that there was discussion
18 before Layla accepted the position about the extent
19 to which the DBHDD person who acted as a liaison
20 would become involved in GNETS?

21 A No, I have no knowledge of that.

22 Q If I told you that Layla Fitzgerald told
23 her DOE collaborator that she would not collaborate
24 in any way with regard to the GNETS program, does
25 that -- how do you understand that?

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1 MR. BELINFANTE: Object to the form.

2 A That is surprising news to me. I don't
3 have any familiarity with that.

4 Q Does it reflect DBHDD policy?

5 A We don't have policy that would guide --

6 Q Does it reflect the tenor of discussion
7 around DBHDD not to get involved with GNETS?

8 A No. I strive for us to be a collaborative
9 agency, but I also am not clear about what Layla's
10 specific responsibilities were, as dictated by both
11 departments. So I can't say more about that.

12 Q What do you understand Layla is doing as
13 part of her collaboration?

14 A I don't have detailed knowledge of that.

15 Q What data does DBHDD receive from GNETS?

16 A I'm not aware of any data that DBHDD
17 receives.

18 Q In some circumstances information flows to
19 COE from DCH, or DBHDD for COE, the Center of
20 Excellence, to Amalgamy. Are you aware of that?

21 A Not in the way you're describing it.

22 Q How are you aware -- how do you understand
23 the circumstances in which the Center for Excellence
24 receives information about behavioral health from
25 either DCH or DBHDD?

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1 A I know that COE serves as an evaluator for
2 several of the programs that we do. So I would
3 expect that there's a transfer of information in
4 order for them to do adequate either fidelity or
5 outcome of evaluations of our program areas.

6 So that's what I'm familiar with.

7 Q So are you aware of whether COE receives
8 any information?

9 A From GNETS?

10 Q Yeah.

11 A I am not aware other than I am aware of a
12 recent child and adolescent behavioral health
13 financing mapping project in which all of the
14 child-serving agencies have brought forward
15 information to IDT. It's a project of the IDT. So
16 all child-serving agencies have submitted
17 information about their behavioral health
18 expenditures.

19 So I'm familiar with that.

20 Q Does that include client level data?

21 A No.

22 Q Are you aware of any client level data
23 coming from GNETS to the Center of Excellence?

24 A I'm not.

25 Q What Center of Excellence data does the

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1 Department of Education have access to?

2 A Repeat the question.

3 Q Yeah. You've been referring to DCH data
4 being provided, IDT data being provided, and DBHDD
5 providing information to the Center for Excellence.

6 Does DOE have access to the information
7 provided by those agencies to the Center for
8 Excellence?

9 A Probably only if it's made public, right.

10 So I'll give you an example. COE does our
11 Apex evaluation, and then -- so we submit lots of
12 information in service of that evaluation effort.
13 COE then produces a report of Apex performance in
14 year whatever. That information is made available,
15 so DOE would have access to the report of the
16 information.

17 Q But not to the information itself?

18 A Correct.

19 Q Now, are you familiar with a 2010 audit by
20 the Georgia Department of Audits and Accounts
21 Performance, audit of GNETS?

22 A I am not.

23 Q Did you ever hear that GNETS was audited
24 by the State auditors?

25 A I have a vague recollection of that.

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1 Q Did you hear that when you were at
2 Viewpoint Health or --

3 A Not likely. I think it's more likely when
4 I came to the department, you would hear about
5 audits that were done on various subjects.

6 So I imagine I heard it in that context.

7 Q What did you hear about the GNETS audit?

8 A I really don't recall other than Audits
9 does reports that are never favorable. So in that
10 context of an audit done by the Department of
11 Audits.

12 Q Did you learn that the Department of
13 Audits had concluded that the Department of
14 Education couldn't demonstrate that the services
15 provided to students in GNETS have resulted in
16 improvements to their behavior?

17 A I don't recall that specific finding, but
18 I don't dispute that that's what it said.

19 Q Did you ever hear that there was no
20 improvements to academic performance either as a
21 result of the GNETS program?

22 A Again, my memory is not specific about the
23 report, only a recollection that it was a negative
24 report. So I'm not -- or dispute.

25 Q Do you recall the general conclusion that

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1 the GNETS program was useless?

2 A I don't recall that terminology, but,
3 again, what my memory was, was it was a negative
4 report.

5 Q And did you learn about inappropriate
6 incidents at GNETS facilities or classrooms?

7 A I don't have direct knowledge --

8 MR. BELINFANTE: Object to form.

9 A -- of that.

10 Q My question doesn't relate to your direct
11 knowledge.

12 A Oh.

13 Q My question is, did you learn about any --
14 that there were inappropriate incidents reported at
15 GNETS facilities or classrooms?

16 MR. BELINFANTE: Object to form.

17 A Possibly. That's not an unusual finding
18 in any facility-based care across state services.
19 So if I was aware there was a negative report about
20 a GNETS facility-based program, it would not be
21 surprising to me that there were specific
22 incidences.

23 Q My question is not whether it's surprising
24 or whether it's unusual, but did you learn that
25 there were inappropriate incidents reported in GNETS

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1 facilities or classrooms?

2 MR. BELINFANTE: Object to the form.

3 A I don't recall.

4 Q Did you ever hear that?

5 A Not to my recollection.

6 Q Now, does GNETS use evidence-based
7 practices?

8 A I do not have knowledge of --

9 Q Are the --

10 A -- their practices.

11 Q Where are the GNETS students drawn from,
12 to your understanding?

13 A I understand those decisions are made
14 locally by local education authorities.

15 Q Do you understand that the GNETS students
16 are residents of the State of Georgia?

17 A Yes.

18 Q And that they have received a mental
19 health diagnosis?

20 A I don't know that that's true in every
21 case.

22 Q You don't know that?

23 A No.

24 Q Do you consider them to be clients of
25 DBHDD?

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1 A Not if they're not receiving DBHDD
2 services.

3 Q Do you consider that DBHDD is charged with
4 providing services to individuals within the
5 Commonwealth of -- excuse me -- within the State of
6 Georgia who have received a mental health diagnosis?

7 MR. BELINFANTE: Object to the form.

8 A Again, not all children in the State of
9 Georgia are DBHDD's responsibility.

10 Q Commissioner, I'm going to mark another
11 email chain. I'll hand you a copy in a minute.

12 MS. COHEN: It will be 367.

13 (WHEREUPON, Plaintiff's Exhibit-367 was
14 marked for identification.)

15 (Witness reviews exhibit.)

16 BY MS. COHEN:

17 Q This email relates to the resignation of
18 Garry McGiboney? Is that right?

19 A I'm just catching up here.

20 Q Okay. Take your time. Tell me when
21 you're ready.

22 A Yeah.

23 (Witness reviews exhibit.)

24 A Oh, I'm caught up.

25 MS. TUCKER: What page number?

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1 MS. COHEN: GA00018599 to 602. And that's
2 been marked as Exhibit 367.

3 BY MS. COHEN:

4 Q How did you learn, Commissioner, that
5 Dr. McGiboney had resigned?

6 A An advocate called me.

7 Q And who was that?

8 A I believe it was Sue Smith, who is the
9 executive director of the Georgia Parents Support
10 Network.

11 Q And what did she say to you and you say to
12 her in that call?

13 A I believe it was as simple as her saying
14 that Garry left DOE and it wasn't his choice, and
15 she didn't know much more about it and she was
16 concerned about him.

17 Q Did you ever find out -- did you ever hear
18 from anyone else on this subject?

19 A No. I heard speculation from people but I
20 didn't hear anything.

21 Q What speculation did you hear?

22 A Is that Garry must have said something to
23 make somebody angry and that must have done him in
24 at DOE.

25 I really don't know more about what

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1 happened.

2 Q How long had you known -- is it
3 Dr. McGiboney or Mr. McGiboney?

4 A Yes. Dr. McGiboney.

5 I knew him from when I was at Viewpoint
6 Health.

7 Q So this was in 2020. So at least 10
8 years?

9 A Uh-hum. (Affirmative.)

10 Q And did you reach out to Dr. McGiboney?

11 A I believe I sent him a text, just to say I
12 was sorry to hear what had happened.

13 Q Did you speak to him after that?

14 A I don't believe I did.

15 Q Was Garry McGiboney a proponent of
16 evidence-based practices?

17 A Yes.

18 Q And was he also a proponent of an
19 integrated System of Care?

20 A You're using language that I wouldn't use,
21 but he was certainly interested in SED youth and
22 using System of Care principles to serve youth with
23 serious emotional disturbances.

24 Q Was there a power struggle between
25 Dr. McGiboney and Matt Jones at DOE?

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1 A I don't have any --

2 MR. BELINFANTE: Object to form.

3 A I don't have any knowledge of that.

4 Q Did you hear speculation that Mr. -- that
5 Dr. McGiboney had been -- that his responsibilities
6 had been curtailed because he was an advocate for
7 either evidence-based practices or System of Care?

8 A I heard speculation that because he was an
9 advocate, he often spoke up, but I never heard any
10 confirmation from any DOE staff, or Garry for that
11 matter. I just heard people speculating.

12 Q You heard people speculating that he was
13 dismissed -- or his responsibilities limited because
14 he was an advocate --

15 A I didn't know about his responsibilities
16 being limited. I only heard about his dismissal.
17 So if there had been a transition prior to that, I
18 wasn't aware.

19 Q Did you hear they had been dismissed
20 because he was an advocate for evidence-based
21 practices?

22 A Again, when I heard from the advocate that
23 I heard from, it was more just in the lane of
24 because he speaks up, and I think a lot of people
25 would know Garry as an advocate who speaks up. I

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1 didn't hear it connected to evidence-based
2 practices.

3 Q Did you hear it connected to GNETS?

4 A No.

5 Q Did Dr. McGiboney have a point of view on
6 that subject?

7 A Not that I'm aware of.

8 Q Okay.

9 MS. COHEN: I am advised I gave the wrong
10 Bates number of that email chain relating to
11 Dr. McGiboney. That it starts at GA000018599
12 and ends at GA0018602.

13 BY MS. COHEN:

14 Q When did you last see Dr. McGiboney?

15 A I saw him virtually a couple weeks ago.

16 Does that count? That's how we see people now.

17 Q I think any contact will count for these
18 purposes.

19 A He was in -- we were both called to a
20 meeting together.

21 Q What kind of meeting was that?

22 A It was an informal advisory meeting called
23 by a legislator, Chairman Mary Margaret Oliver, who
24 is interested in the implementation of the MATCH
25 Committee, which is required in the new mental

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1 health law.

2 So she has a group of informal advisors
3 that she wanted to bring to a conversation about how
4 did we think this could best be planned and
5 implemented.

6 Q What were the issues on that?

7 A DBHDD is the responsible agency. The
8 MATCH Committee is a team that used to be in place
9 decades ago. It is now being revised in the
10 legislation. So Chairman Oliver just wanted to get
11 everyone's opinion about what were some tangible
12 steps forward for this to be successful.

13 So Garry is one of her advisors.

14 Q So you see Dr. McGiboney from time to
15 time?

16 A Occasionally. He works, he works for
17 Sharecare is now what I -- that was his employment
18 at the time of this call a couple weeks ago. So I
19 see him less. I don't know about his current
20 engagement in state activities.

21 Q What is Sharecare?

22 A That's the State's -- State Health Benefit
23 Plans wellness provider.

24 Q And what is his title there?

25 A I don't know, actually.

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1 Q Do you know if he's a senior member of the
2 team at Sharecare?

3 A I don't. He's got a lovely library
4 background, is what I now know. The Zoom
5 environment of what I know.

6 Q Let's move on to looking at Georgia
7 statute -- Georgia Code 37-1-2.

8 Here's a copy for you.

9 MS. COHEN: Oh, and I'm sorry, we're going
10 to mark this as Exhibit 368.

11 (WHEREUPON, Plaintiff's Exhibit-368 was
12 marked for identification.)

13 BY MS. COHEN:

14 Q A copy for you and a copy for counsel.

15 MR. BELINFANTE: Thank you.

16 What number was this again?

17 MS. COHEN: 368.

18 I'm sorry, I gave the wrong section. Take
19 that back.

20 BY MS. COHEN:

21 Q I'll give you Georgia Code Title 37,
22 Mental Health Section 37-1-2.

23 MS. COHEN: And we can still mark it as
24 Exhibit 368. That's what we'll do.

25

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1 BY MS. COHEN:

2 Q Are you familiar with this statute?

3 A I am.

4 Q Is this one of the statutes that you're
5 charged with implementing?

6 A Yes.

7 Q It is the enabling legislation for the
8 Department of Behavioral Health and Developmental
9 Disabilities?

10 A Yes.

11 Q And when I use the term "enabling
12 legislation," do you understand that I refer to
13 legislation that sets forth the statutory authority
14 for agency action?

15 A Yes.

16 Q Did you have any involvement in drafting
17 the enabling legislation related to DBHDD?

18 A No.

19 Q Do you remember at the time the agency was
20 being considered by the legislature?

21 A I was not involved in state level
22 activities at that time, so I don't have a lot --

23 Q You were not the director of a state
24 mental health agency at that time?

25 A No.

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1 Q Currently, it's your job, anyway, as
2 Commissioner to implement the statute?

3 A Yes.

4 Q And I think you were at Viewpoint when
5 DBHDD was created?

6 A Yes.

7 Q And did you have any advocacy role with
8 regard to the creation of DBHDD?

9 A No.

10 Q And the statute refers to the General
11 Assembly?

12 A Yes.

13 Q Do you understand that to be a fancy word
14 for the Georgia legislature?

15 A Yes.

16 Q And it says that in connection with the
17 creation of DBHDD, the General Assembly found that
18 "a comprehensive range of quality services and
19 opportunities is vitally important to the existence
20 and well-being of individuals with mental health,
21 developmental disability, or addictive disease needs
22 and their families"?

23 A Yes.

24 Q And do you consider a comprehensive range
25 of quality services and opportunities to be vitally

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1 important to the existence and well-being of
2 individuals in GNETS facilities or classrooms with
3 mental health issues?

4 A Could you say it again?

5 Q Sure. Do you consider a comprehensive
6 range of quality services and opportunities to be
7 vitally important to the existence and well-being of
8 individuals in GNETS facilities or classrooms with
9 mental health issues?

10 MR. BELINFANTE: Object to form.

11 A I understand that as a responsibility of
12 DOE and not what's in here, since DBHDD does not
13 operate those facilities.

14 Q So is it your testimony, Commissioner,
15 that DBHDD has no responsibility to create a
16 comprehensive range of quality services and
17 opportunities for individuals at GNETS?

18 A Not while they are reside -- receiving
19 their education in GNETS. I don't understand DBHDD
20 to have responsibility.

21 Q DBHDD --

22 A -- for that.

23 Q -- has responsibility to pay for mental
24 health services for uninsured individuals?

25 A Those that are eligible for services, yes.

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1 Q And if there -- let me just ask you, if
2 there are individuals in GNETS facilities or
3 classrooms who are uninsured, does DBHDD have any
4 responsibility to those individuals?

5 MR. BELINFANTE: Object to the form.

6 A If they're not receiving services that
7 they need, they might come to the attention of
8 DBHDD.

9 Q My question to you was, if there are
10 individuals in GNETS facilities or classrooms with
11 mental health diagnoses who are uninsured, does
12 DBHDD have any responsibility to those individuals?

13 MR. BELINFANTE: Object to the form.

14 A I'm not certain.

15 Q What is the basis of your uncertainty?

16 A It's my understanding that GNETS, in an
17 effort to provide the appropriate educational
18 information, is providing therapeutic supports and
19 services that enable that education.

20 Q So my question to you is, if there are
21 individuals in GNETS facilities or classrooms with
22 mental health diagnoses who are uninsured, does
23 DBHDD have any responsibility to those individuals?

24 MR. BELINFANTE: Object to the form.

25 A If they present to DBHDD services, then,

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1 then a DBHDD provider might provide services to them
2 that should be coordinated with services and
3 supports that they would be receiving in the GNETS
4 environment.

5 Q Does DBHDD have any responsibility to
6 reach out to individuals who it knows has mental
7 health diagnoses to ensure that they are receiving
8 adequate services?

9 MR. BELINFANTE: Object to the form.

10 A We make information publicly available to
11 the public, as best we can, and we are resourced to
12 do, but that is different than saying we do active
13 recruiting of certain populations.

14 Q Well, you know there's a population at --
15 being serviced by the Department of Education that
16 have or may have mental health diagnoses, right?

17 A Yes.

18 Q And do you know how big that population
19 is?

20 A I do not.

21 Q If I said 4,000 to 5,000, would that sound
22 right to you?

23 A I don't have a way to assess that.

24 Q Has any outreach been made by DBHDD to see
25 whether those individuals are receiving adequate

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1 mental health services?

2 A Not that I'm aware of.

3 Q Now, looking at 37-1-2, sub (a), the
4 enabling legislation.

5 Let me put my glasses on, too. It's
6 awfully small and I apologize.

7 It says: "The General Assembly further
8 finds that the state has an obligation and
9 responsibility to develop and implement planning and
10 service delivery systems which focus on a core set
11 of consumer oriented, community based values and
12 principles" --

13 A I'm sorry. Where are you reading from?

14 Q I'm sorry. Probably going too fast.

15 A I just don't know where you're pulling it
16 from.

17 Q I'm looking at --

18 A Could you reference the letter --

19 Q -- Georgia Code Title 37 --

20 A Yeah.

21 Q -- -1-2.

22 A Uh-hum.

23 Q Subparagraph a, which is the first
24 paragraph.

25 Do you see that?

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1 A Oh, you're at the last sentence here.

2 Okay, now I'm tracking. Thank you.

3 Q Are you aware of that provision of the
4 statute?

5 A Yes.

6 Q And you, Commissioner, have responsibility
7 to develop and implement the provision of such
8 services?

9 A Yes.

10 Q And the legislature made these findings at
11 the time it created DBHDD in 2009?

12 A Yes.

13 Q And as Commissioner, you're aware of the
14 legislative charge that service delivery systems
15 focus on a core set of community-oriented,
16 community-based values and principles?

17 A Yes.

18 Q And do those values and principles guide
19 DBHDD today?

20 A Generally speaking, yes.

21 Q Are there any exceptions?

22 A Item No. 2 that references "a single point
23 of accountability should exist for fiscal service,
24 and administrative issues to ensure better
25 coordination of services among all programs and

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1 providers," I consider that an ideal but because
2 there are different funding sources for mental
3 health services, there is not in fact a single point
4 of accountability for fiscal service and
5 administrative issues across the board.

6 Q Are there any other exceptions other than
7 the difference between the ideal and the reality in
8 Item No. 2?

9 A In Item No. 10, regional planning boards
10 no longer exist.

11 Q They've been replaced by RIATS?

12 A No.

13 Q There's no role for regional planning
14 boards now?

15 A No. It's a different construct now. They
16 used to have different authority and role back then.
17 We now have Regional Advisory Councils but it's a
18 different construct.

19 Q RAC --

20 A RAC, but that's different than the RIAT.
21 Sorry.

22 Q Any other exceptions, Commissioner?

23 A That's all I see for now.

24 Q Looking at Item No. 1, "Consumers and
25 families should have choices about services and

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1 providers and should have substantive input into the
2 planning and delivery of all services," I think
3 you've already said today that you understand that
4 to be one of the responsibilities of DBHDD?

5 A Yes.

6 Q And also that DBHDD has the responsibility
7 to ensure that the system of providing services to
8 individuals with mental health needs is met at the
9 appropriate service levels?

10 A That's the goal.

11 Q Look at Item No. 9, on the second page of
12 Exhibit 368. One of the charges by the General
13 Assembly is that "consumers and families should have
14 a single, community based point of entry into the
15 system."

16 Do you see that?

17 A I do.

18 Q Do you understand that to be part of the
19 legislative charge to DBHDD?

20 A I do.

21 MR. BELINFANTE: Object to the form.

22 Q What is the meaning of a single, specific
23 community based point of entry?

24 MR. BELINFANTE: Object to the form.

25 A The idea is we make it easy for people who

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1 want to seek mental health services to go to the
2 nearest provider, and they have easy entry. And if
3 that point of entry is not exactly what they need,
4 that that service provider would help them find what
5 they need.

6 Q And is one of the ways in which DBHDD
7 satisfies this charge to the legislature by
8 providing school-based mental health services?

9 MR. BELINFANTE: Object to the form.

10 A I think that's one element of access.

11 Q And do you know what points of access the
12 individuals in GNETS have?

13 A I don't.

14 Q Looking at Subparagraph 11, it states,
15 quote: "The department is responsible for ensuring
16 the appropriate use of state, federal, and other
17 funds to provide quality services for individuals
18 with mental health, developmental disabilities, or
19 addictive disease needs who are served by the public
20 system and to protect consumers of those services
21 from abuse and maltreatment."

22 Are you familiar with that?

23 A Yes.

24 Q Are there any exceptions to that charge?

25 MR. BELINFANTE: Object to the form.

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1 A No.

2 Q So one of your responsibilities as
3 Commissioner is to ensure the use of state, federal,
4 and other funds to provide quality services for
5 individuals with mental health and developmental
6 disabilities?

7 MR. BELINFANTE: Object to the form.

8 A Yes.

9 Q And is that true with respect to all
10 services the State provides to treat individuals
11 with mental health and developmental disabilities?

12 A Is what true? Using funds appropriately?

13 Q Yes.

14 A Is that what you mean?

15 Yes, for all of the programs we administer
16 and contract for.

17 Q So if the General Assembly appropriates
18 funds to GNETS, do you have responsibility for
19 ensuring the appropriate use of those funds or not?

20 A No.

21 MR. BELINFANTE: Object to form.

22 Q Looking at sub 3, back on the first page
23 of Exhibit 368. It says the department shall,
24 quote, "Plan for and implement the coordination of
25 mental health, developmental disability, and

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1 addictive services -- disease services with physical
2 health services, and the prevention of any of these
3 diseases or conditions, and develop and promulgate
4 rules and regulations to require that all health
5 services be coordinated."

6 Do you see that?

7 A No. Actually, where are you reading from?
8 I thought you said 3.

9 Q I thought I said 3, too. I'm sorry. I
10 was looking at my outline.

11 A I'm familiar with that language. I'm just
12 not reading it right now.

13 Q I think it's 37-1-20.

14 A Yeah.

15 Q Do you consider that the department has
16 that responsibility with respect to the individuals
17 in GNETS?

18 MR. BELINFANTE: Object to the form.

19 A I do not.

20 MS. COHEN: Let's look at that statute.
21 We can take a break and then we'll come back to
22 it.

23 THE VIDEOGRAPHER: Off the record at 2:59
24 p.m.

25 (A recess was taken.)

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1 THE VIDEOGRAPHER: We're back on the
2 record at 3:22 p.m.

3 BY MS. COHEN:

4 Q Okay. Commissioner, I just had a couple
5 of questions. I want to go back to Clara Keith for
6 a minute.

7 Did she have an office at -- in your
8 building at DBHDD during the time that she worked at
9 DBHDD?

10 A I don't believe so.

11 Q Where was her office?

12 A I don't recall.

13 Q Are you familiar with Larry Winter?

14 A The name sounds familiar but I don't have
15 an --

16 Q On the State --

17 A -- who he is.

18 Q -- on the State Board?

19 A Now that you say it, that rings a bell.

20 Q Did you ever hear that Larry Winter had
21 suggested that Clara Keith work for DBHDD?

22 A I did not hear that.

23 Q At the meetings, what you've described is
24 that Clara Keith was reporting to you and Mr. Minor
25 and Commissioner Berry about the program at GNETS.

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1 Is that correct?

2 A Yes.

3 Q Did she ever ask you any questions about
4 how to integrate any of the programs at DBHDD with
5 the GNETS services?

6 A Not that I recall.

7 Q Did you provide in the course of those
8 meetings -- when I say you, I mean to the collective
9 group you -- did you provide any information about
10 services that DBHDD provided?

11 A Not that I recall explicitly.

12 Q Did she talk to you about any services
13 that -- or any improvements that she was making at
14 that time or proposing to make to GNETS?

15 A I believe she did. I don't remember any
16 of the specifics of her technical assistance.

17 Q When you say that she came on to report
18 about improvements at GNETS, was there a consensus
19 that improvements were needed at GNETS?

20 A It was my --

21 MR. BELINFANTE: Object to the form.

22 A It was my understanding that she was
23 tasked as a result of her experience to provide
24 technical assistance that would assist the GNETS
25 locations with their provision of education and

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1 other services and supports.

2 Q She had not previously worked for GNETS or
3 in the GNETS program?

4 A I don't know that.

5 Q Do you know that she worked closely with
6 Nakeba Rahming at DOE?

7 A Yes.

8 Q And did you know anything more about her
9 background or expertise?

10 A At one point I'm sure I saw her resume,
11 but I don't have a recollection of that.

12 Q Understood.

13 MS. COHEN: All right. So let's go back
14 to the exciting area of state statutes.

15 Now we'll look at 37-1-20, and we'll mark
16 this as 369.

17 (WHEREUPON, Plaintiff's Exhibit-369 was
18 marked for identification.)

19 BY MS. COHEN:

20 Q So I was asking you about Section 3 of the
21 wrong statute. I want to ask you about Section 3 of
22 this statute.

23 Can you identify this statute for us
24 first, though, that we marked as Exhibit 369,
25 37-1-20, Obligations of the Department of Behavioral

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1 Health and Developmental Disabilities?

2 A Yes.

3 Q What is it?

4 A What is this chapter?

5 Q Yeah.

6 A This is the legislative intent for the
7 responsibilities of DBHDD.

8 Q And you're familiar with this statute as
9 well?

10 A Yes.

11 Q This is also enabling legislation?

12 A Yes.

13 Q So with regard to Paragraph 3, it says:
14 "The department shall," Paragraph 3, quote: "Plan
15 for and implement the coordination of mental health,
16 developmental disability, addictive disease services
17 with physical health services, and the prevention of
18 any of these diseases or conditions, and develop and
19 promulgate rules and regulations to require that all
20 health services be coordinated."

21 Do you see that?

22 A I do.

23 Q And do you view this as a responsibility
24 or obligation of the department?

25 A I see that this is what the legislature

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1 intended for the department.

2 Q Is this an obligation that the legislature
3 has charged the department with?

4 MR. BELINFANTE: Object to the form.

5 A I see this is what they have asked DBHDD
6 to do.

7 Q It says the legislature -- it says that
8 "the department shall."

9 Do you see the portion of Paragraph 3 that
10 I've read to be an obligation of DBHDD enacted by
11 the legislature?

12 MR. BELINFANTE: Object to the form.

13 A I see that that's what's intended.

14 Q Do you understand that to be one of your
15 obligations as Commissioner of the Department of
16 Behavioral Health and Developmental Disabilities --

17 MR. BELINFANTE: Object to the form.

18 Q -- to plan for and coordinate mental
19 health and services with physical services?

20 A I understand that these are the desires
21 enumerated here by the General Assembly.

22 Q Do you consider it to be optional?

23 MR. BELINFANTE: Object to form.

24 A I consider it to be the goal for the
25 department and for me in my role as Commissioner.

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1 Q And are the individuals in the GNETS
2 program part of that obligation?

3 MR. BELINFANTE: Object to the form.

4 A I don't consider them to be in the
5 responsibility of DBHDD.

6 Q In any way?

7 A Correct.

8 Q Are there any services provided with state
9 funds for behavioral health that DBHDD -- that DBHDD
10 does not have responsibility to implement and
11 coordinate?

12 MR. BELINFANTE: Object to the form.

13 A Repeat the first part.

14 Q Sure. Are there any services for
15 behavioral health provided with state funds that
16 DBHDD does not have responsibility to implement and
17 coordinate?

18 A Yes.

19 MR. BELINFANTE: Same objection.

20 Q What are those?

21 A As I mentioned, several child-serving
22 agencies deliver behavioral health services to their
23 client population. We do not have oversight of
24 those services.

25 Q Under Subparagraph 24, it says: "The

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1 department shall assign specific responsibility to
2 one or more units of the department for the
3 development of programs designed to serve disabled
4 infants, children and youth." And "To the extent
5 practicable, such units will" -- "shall cooperate
6 with the Georgia Department of Education and the
7 University System of Georgia in developing such
8 programs."

9 Do you see --

10 MR. BELINFANTE: Just for the record, you
11 said 24, but you read 23.

12 You intended 23?

13 MS. COHEN: No. I intended 24. Where do
14 you see 23?

15 MR. BELINFANTE: I've got one pulled up
16 online. That's why. It's a different version.
17 I'm sorry.

18 MS. COHEN: That's okay, Josh.

19 BY MS. COHEN:

20 Q So just that the record is clear,
21 Subparagraph 24 says: "The department shall assign
22 specific responsibility to one or more units of the
23 department for the development of programs designed
24 to serve disabled infants, children and youth." And
25 "To the extent practicable, such units shall

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1 cooperate with the Georgia Department of Education
2 and the University System of Georgia in developing
3 such programs."

4 Do you see that?

5 A Yes.

6 Q And as far as you're concerned,
7 responsibility with regard to children and youth has
8 been assigned to the Office of Children, Young
9 Adults and Family, headed by Dante McKay?

10 A Yes.

11 Q And that's the only unit of the department
12 with specific responsibility to provide behavioral
13 services for infants, children and youth in need of
14 behavioral services?

15 A Yes.

16 Q Now, in your view, does GNETS provide a
17 comprehensive range of quality services and
18 opportunities, including a course of
19 consumer-oriented, community-based values and
20 principles?

21 A I don't have any knowledge about that.

22 Q In your view, does GNETS provide families
23 with behavioral health needs with choices about
24 services and providers?

25 A I don't have knowledge about that.

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1 Q Does GNETS ensure that mental health
2 services are provided and coordinated with physical
3 health services?

4 MR. BELINFANTE: Object to the form.

5 A I don't have any direct knowledge of that.

6 Q If there were abuse or maltreatment at
7 GNETS, would DBHDD have responsibility to protect
8 the individuals maltreated?

9 MR. BELINFANTE: Object to form.

10 A No.

11 Q Who would be responsible to protect those
12 individuals with mental health needs from abuse and
13 maltreatment in the GNETS program?

14 MR. BELINFANTE: Object to the form.

15 A I assume the local education authority.

16 Q Have you ever inquired?

17 A No.

18 Q I want to ask you about the Apex program,
19 and I think you said one of the organizing
20 principles is that it's based on school-based mental
21 health services.

22 Now, in terms of the Community Service
23 Boards that participate as Apex providers, how many
24 are there?

25 A How many Apex providers are there?

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1 Q Yes.

2 A I don't know.

3 Q Approximately 20?

4 A I don't know -- that sounds about right.

5 I know the number of schools we were in at the end
6 of Year 6.

7 Q How many?

8 A Which was 731.

9 Q Congratulations.

10 A Yes. But I -- providers obviously serve
11 multiple schools, so I don't have an exact number.
12 And also some of the providers -- some providers are
13 CSBs. We also have non-CSB providers in the Apex
14 program as well.

15 Q Non-CSB providers, they are Level II
16 providers, or Tier I?

17 A Tier II.

18 Q Tier II?

19 A They could be, yes.

20 Q Now, is it a feature of the Apex program
21 that compensation is provided to the CSBs in excess
22 of compensation for -- the insurance compensation
23 for their services?

24 A Yes.

25 Q And is that something that was new with

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1 the Apex program?

2 A I'm not sure what you mean by new because
3 doing school-based mental health services itself was
4 new for DBHDD. So --

5 Q So it is a feature of the program as it
6 was rolled out to the CSBs that DBHDD would provide
7 additional compensation beyond what they could
8 charge insurance?

9 A Yes.

10 Q And how did that work? What was the
11 reason for it? What was the mechanism?

12 A So the Apex program, again to reinforce,
13 is a partnership between the school and the
14 community behavioral health provider. The provision
15 of direct clinical supports is just one feature of
16 that partnership, right, providing access to youth
17 who are identified as having a need and desiring to
18 receive services in that school-based setting.

19 One of the other partnership features is
20 that teachers, administrators and others may have
21 questions about mental health needs or things
22 they're observing, and they might want to have the
23 opportunity to seek some guidance or some expertise.

24 So the staff would be available for that
25 in addition to possibly providing one-on-one direct

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1 clinical care.

2 Q And in those circumstances for the second
3 component, conferencing with teachers,
4 administrators, et cetera, and parents -- are
5 parents also included?

6 A Yes. And then providing mental health
7 awareness activities in the school environment.

8 Q How are the CSBs compensated?

9 A So, again, I just want to be clear, it's
10 beyond CSBs. They're providers.

11 Q How are the providers compensated?

12 A I don't know how the allocation currently
13 works. We get an allocation from the General
14 Assembly. Schools apply to be Apex schools within
15 the provider, but that's a level of detail I'm not
16 familiar with anymore, about how the actual
17 financing mechanism works.

18 Q Schools apply to be Apex schools, and at
19 that point, under the Apex program, they enter into
20 contracts with DBHDD?

21 A No. The schools -- the contract is with
22 the provider. The schools have to --

23 Q I'm sorry.

24 MS. COHEN: Let me withdraw that question.

25

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1 BY MS. COHEN:

2 Q So providers enter into -- apply to DBHDD
3 for the opportunity to participate in the Apex
4 program, correct?

5 A Yes.

6 Q And if they're accepted into the Apex
7 program, then they enter into a contract with DBHDD;
8 is that right?

9 A They have to be an enrolled DBHDD provider
10 in order to be an Apex partner.

11 Q And they're subject to the contract?

12 A Yes.

13 Q And that contract provides for
14 compensation for certain services; isn't that right?

15 A Yes.

16 Q And what are the services that provides
17 compensation for it?

18 A I don't have that level of detail.

19 Q Is it your understanding that it provides
20 for some of the administration and mental health
21 awareness that you previously described?

22 A Yes.

23 Q And is this money provided every year or
24 only as an initial seed money?

25 A So we -- funding for the Apex program has

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1 been depended on allocation from the General
2 Assembly. So year over year we hope to sustain that
3 program, and we have expanded that program year over
4 year. And so contingent upon funding received from
5 the General Assembly, we endeavor to continue the
6 program.

7 Q And is the annual payment approximately
8 between \$250,000 and \$300,000 to a provider to
9 participate in the Apex program?

10 A I don't recall.

11 Q You don't have any knowledge of that?

12 A (Witness shakes head negatively.)

13 Q Do you know how much money is allocated in
14 total, Commissioner?

15 A I think it's in the neighborhood of \$7
16 million.

17 Q And these providers receive only one
18 contract and one payment per year for participating
19 in the Apex program, or is it dependent on how many
20 schools they have partnerships with?

21 A Again, I'm not -- no longer versed in the
22 details here. We're now in Year 7, and so I don't
23 know the details. But given the number of providers
24 we've outlined and the number of schools we've
25 outlined, I would assume the provider allocation is

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1 contingent upon how many schools they're trying to
2 reach.

3 Q Do you recall if it's a capitation
4 mechanism or per school mechanism?

5 A I assume it's per school, but if that's
6 changed, I'm not aware.

7 Q Who is the person at DBHDD most
8 knowledgeable about those contracts?

9 A Dante McKay.

10 Q Is there anyone on the accountability side
11 who's familiar with those contracts?

12 A I don't know a specific name of someone
13 who's...

14 Q So the providers in the Apex program
15 receive payments for entering into partnerships with
16 schools, and the other way they receive payment is
17 by Medicaid billing?

18 A Yes.

19 Q And that is for direct clinical supports
20 provided within the school building?

21 A I believe so.

22 Q And what types of facilities are made
23 available to the Apex providers in the schools?

24 A So this is a part of the program that's
25 changed over the course of time, and --

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1 Q How so?

2 A In the early days, again when we were in
3 pilot and just learning, schools making space
4 available was not necessarily an explicit
5 requirement. We have learned over the course of
6 time that if we did not explicitly state some things
7 we needed the school to do -- for example, provide
8 available space for private counseling sessions. We
9 now have requirements of what the school must agree
10 to in order to be considered to be an Apex school.

11 Q Has, has your department assessed how much
12 it would cost the State to allocate, to support
13 expansion of Apex to all the schools in the State?

14 A I don't believe so.

15 Q Is that something you would support,
16 Commissioner?

17 A My current concern about that would be the
18 workforce shortages that would make that not
19 possible to fulfill. So it's beyond just --

20 Q So it's a capacity issue?

21 A Yeah. It's beyond --

22 Q Apart from the capacity issue, assuming we
23 are some day able to expand the workforce in the
24 State of Georgia, would you support expansion of the
25 Apex program to all of the schools in the State of

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1 Georgia?

2 A I would support it to any school that is
3 willing to hold up their part of the agreement,
4 which has not been true in every case.

5 Q With regard -- you're talking about the
6 school administration.

7 Are there any students who you believe are
8 not suitable for the Apex program?

9 A Yes.

10 Q Who are those?

11 A Those might be students whose needs are
12 beyond -- when identified, they might begin with
13 initial access to be the services in that school
14 setting, and it might be determined that their needs
15 cannot be met in that school-based environment.

16 Q Let me ask you this -- I have one other
17 question about this.

18 What are the types of reporting that the
19 department receives from Apex participants?

20 A I'm not conversant in the details anymore.
21 I am familiar with COE's report, evaluation report,
22 of -- but I'm not -- I don't know what the actual
23 transfer of data collection points is.

24 Q Are you aware that the Center for
25 Excellence receives monthly programmatic reports?

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1 A Yes.

2 Q And also monthly encounter reports?

3 A Yes.

4 Q And what are the metrics that are used to
5 measure the success of the Apex program?

6 You've told us it's in 700 plus schools,
7 but how do you evaluate whether or not it's
8 effective?

9 A What COE has used as some of its measures
10 of evaluation are parental satisfaction and parents
11 believing that their youth's mental health was
12 improving, and reduced days of out of school
13 suspension.

14 Those are the two that come to mind.
15 We're working on developing some other outcome
16 metrics as well.

17 Q You've discussed that with the Center of
18 Excellence?

19 A Pre-COVID, is the last conversation I
20 recall about that.

21 Q When did post-COVID begin?

22 A All I can say it was before COVID.

23 Q So back to March 2020?

24 A Yes. Prior to then.

25 Q And you don't recall any discussions since

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1 then?

2 A Not, not at my level, which doesn't mean
3 they didn't happen. Just not, not that I was
4 engaged in.

5 Q Does GNETS measure its performance by
6 parental satisfaction?

7 A I don't have any idea.

8 Q Does GNETS measure its performance by out
9 of school time?

10 A I have no knowledge.

11 Q I know you said you didn't recall any
12 specific meetings with anyone from DOE about GNETS,
13 but let me ask if it would refresh your recollection
14 if I were to suggest to you that Superintendent Wood
15 requested a meeting with the DBHDD leadership at
16 some point to discuss collaboration between Apex and
17 GNETS? Do you recall that?

18 A I do not recall any discussion about
19 collaboration between Apex and GNETS. I do recall a
20 discussion with Superintendent Woods and an Apex
21 provider, but that was solely about Apex, in my
22 recollection.

23 Q Who was present at that meeting?

24 A I don't recall.

25 Q Was Superintendent Wood present?

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1 A Yes.

2 Q Were you present?

3 A Yes.

4 Q Who was the provider?

5 A If you showed me the name I would remember
6 it, but -- and I remember the young woman who was
7 the executive director. I don't remember the name
8 of the provider. It's years ago.

9 Q What's the name of the executive director?
10 You can't remember that?

11 A Uh-uh. (Negative.)

12 Long black hair.

13 Q And what was the -- where did that meeting
14 take place?

15 A I believe it was in Superintendent Wood's
16 office.

17 Q And did anyone else come with you from
18 DBHDD?

19 A I don't recall.

20 Q And what did Superintendent Woods say and
21 what did you respond?

22 A I don't have a lot of recollection about
23 the meeting. There was enthusiasm about Apex.

24 I remember -- my recollection is he wanted
25 to understand more how it worked from the provider's

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1 experience. This was a non-CSB provider, I can tell
2 you that, and I do believe that a big part of the
3 conversation was also about the fact that through
4 their Apex grant they also provided summer
5 programming, and the superintendent was very
6 interested in that.

7 Q In fact, it's one of the requirements of
8 the Apex participation, that the CSB provide summer
9 programming, right?

10 A That's my understanding.

11 Q And Superintendent Wood was enthusiastic
12 about that?

13 A In this individual meeting with the
14 provider, my recollection is they were one of the
15 first ones who had a pretty robust summer
16 programming. They had initiated that on their own
17 and it, just as happens in pilot programs, somebody
18 starts to do something and it becomes a really
19 critical part of the program going forward.

20 Q In advance of the meeting, did you ask Mr.
21 McKay to research what collaboration was already
22 taking place between Apex and GNETS?

23 A I don't have any memory of Apex and GNETS
24 being at the core of that conversation.

25 Q Do you have any memory of asking Mr. McKay

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1 to do some research in anticipation of this meeting?

2 A I don't.

3 Q Did Mr. McKay ever report to you that
4 there effectively was not any cooperation between
5 Apex and GNETS?

6 A I don't recall that.

7 Q And when I say Apex, I'm referring to the
8 Apex providers and the GNETS program.

9 A I don't have any recollection of a
10 conversation about that.

11 Q What did you do after Superintendent -- on
12 this issue after you met with Superintendent Wood?

13 A I don't remember any specific action steps
14 that came out of it, other than it was a positive
15 partnership between DBHDD and DOE, specifically
16 Apex. That they saw this as positive for their Apex
17 involved schools. They were pleased that DBHDD was
18 seeking continued funding for Apex, was viewed
19 positively.

20 And I can't recall if at that time we also
21 had information about Apex working particularly well
22 in schools where PBIS was incorporated, positive
23 behavior supports.

24 Q Did the conversation relate in any way to
25 GNETS programs?

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1 A I recall no conversation about GNETS with
2 the superintendent.

3 Q Commissioner, I'm going to mark as Exhibit
4 370 a copy of an email chain between yourself and
5 Dr. McGiboney from February of 2019, with the
6 Bates-stamp GA00003148.

7 Here's a copy for you, which I'll ask
8 Wanda to mark, and here's a copy for counsel.

9 (WHEREUPON, Plaintiff's Exhibit-370 was
10 marked for identification.)

11 BY MS. COHEN:

12 Q By the way, before you -- we get into
13 Exhibit 370, can I just ask you, did Mr. McKay
14 attend the meeting with Superintendent Woods and the
15 provider?

16 A I don't believe so.

17 Q Did Ms. Johnson?

18 A I don't recall. It's possible that --
19 usually I would bring someone with me, but I simply
20 don't recall from that day.

21 Q Okay. All right.

22 Now, with regard to Exhibit 370, this is
23 an email exchange between yourself and
24 Dr. McGiboney?

25 A Uh-hum. (Affirmative.)

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1 Q And you wrote in the second full
2 paragraph: "I just wanted to let you know that I
3 had -- "I had an opportunity to highlight PBIS, and
4 that our data shows that when schools have adopted
5 PBIS, Apex is more successful."

6 A Uh-hum. (Affirmative.)

7 Q Is that data that you had received from
8 the Center for Excellence?

9 A Yes.

10 Q And is that information that you had
11 communicated to superintendent -- to Superintendent
12 Wood when you met with him?

13 A I believe I did.

14 Q And why did you send an email on this
15 subject to superintendent -- to Dr. McGiboney?

16 A Dr. McGiboney was the recognized statewide
17 champion and leader of implementing PBIS, and so I
18 knew it would be welcome news to him that, one, I
19 had the opportunity to talk about this with the
20 Governor and a positive impact that it has; and,
21 two, that we recognized that that positive impact on
22 school climate enabled more success with Apex.

23 I thought that would be welcome news and I
24 didn't want him to get blindsided if someone from
25 the Governor's Office or elsewhere circled back to

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1 him.

2 Q Understood.

3 Does this refresh your recollection at all
4 about the timing of you meeting with Superintendent
5 Wood?

6 A No. This is completely separate.

7 Q Well, when you met with Superintendent
8 Wood, I think you said that you had data showing
9 that when schools have adopted PBIS, Apex is more
10 successful?

11 A Yes. It doesn't clarify the timetable for
12 me, though. So that would have been a data point
13 that I would have talked about for an extended
14 period of time in support of --

15 Q Now PBIS --

16 A -- PBIS.

17 Q -- refers to what?

18 A Positive behavior supports.

19 Q What's the "I" for?

20 A I'm blanking right now. We should ask
21 Dr. McGiboney. We always reference it as positive
22 behavior supports. I don't think it's intervention?
23 Is it? Yeah, okay, it is.

24 Phone a friend. I knew we'd get there.

25 Q There you go.

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1 So PBIS was not a requirement of
2 participation in Apex?

3 A Correct.

4 Q And DBHDD didn't require the school
5 district to implement a PBIS system; is that right?

6 A Correct.

7 Q PBIS is a three-tiered system of
8 regulating climate and the situation for individuals
9 with mental health diagnoses in the school?

10 A I'm not an expert in PBIS.

11 Q Did you understand that the schools had to
12 have a three-tiered system to be an Apex partner?

13 A No.

14 Q Were there any structural impediment --
15 let me ask you one other thing.

16 What is the paperwork between the school
17 and DBHDD or the provider with regard to Apex?

18 MR. BELINFANTE: Object to form.

19 A I can only say it's a contractual
20 relationship.

21 Q And does it run from the State of Georgia
22 to the participating school?

23 A It runs from DBHDD to the community-based
24 behavioral health provider.

25 Q And is the school, participating school,

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1 also required to enter into a contract?

2 A I actually am not sure whether that's
3 expressed as a contract. I don't think that it is
4 but I'm no longer sure of those details.

5 Q Early on I think -- earlier today you had
6 mentioned that the Apex program has requirements for
7 participating schools?

8 A That's correct.

9 Q And you don't know as you sit here now
10 whether those requirements are expressed as a
11 contract or in some other way?

12 A Right. For example, a way some of those
13 requirements might be expressed is in the
14 application process, right.

15 Q I see.

16 A That you agree to A, B, C. And so that
17 may appear later in a contract. I'm just not -- I'm
18 not sure now as we've grown the program.

19 Q Who is the principal custodian at DBHDD
20 for the applications to participate in the Apex
21 process?

22 A Either Dante McKay or someone on his team.

23 Q Layla Fitzgerald?

24 A Not that I'm aware of, but I don't know
25 who's delegated that.

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1 Q Are there any structural impediments to a
2 collaboration between a standalone GNETS program and
3 the Apex program?

4 A I'm not sure what you mean by a structural
5 impediment.

6 Q Were there any commitments on the school
7 program side that are inconsistent with your
8 understanding of the GNETS program?

9 A I'm not sure that I know enough about the
10 GNETS program to be certain about that.

11 Q If you're not certain, are there any
12 elements that you think likely would cause conflict
13 with GNETS?

14 MR. BELINFANTE: Object to the form.

15 A I don't think conflict so much as capacity
16 challenges. In an Apex environment a limited
17 portion of the students in that school are in need
18 of and seek mental health services. It's not every
19 youth in the school. The provider would not be
20 equipped to handle the entirety of the school and
21 provide behavioral health services to everyone in
22 the school.

23 So they can do sort of -- as I've
24 mentioned, these awareness raising and other things
25 that touch everyone in the school, but to provide

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1 one-on-one services to everyone in the school, that
2 was never the expectation or intent.

3 Q Are there any other issues that you think
4 would present impediments to collaboration between a
5 GNETS facility and the Apex program?

6 A I don't know enough about diagnoses of the
7 youth in the GNETS setting to assess that.

8 Q Have you ever inquired?

9 A No.

10 Q Is there a particular legislature or
11 legislators who are advocates for the GNETS program?

12 MR. BELINFANTE: Object to the form.

13 A I know there are elected officials who are
14 pleased to know that there are -- there is
15 school-based mental health in their local community.

16 Q My question didn't relate to school-based
17 mental health. It related to the GNETS program.

18 A Oh.

19 Q Do you know which elected officials are
20 specifically identified with the GNETS program?

21 A I have no knowledge of that.

22 MS. COHEN: Let's mark -- I don't have to
23 mark it at all.

24 BY MS. COHEN:

25 Q I'm going to show you what has been

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1 previously marked as Exhibit 358.

2 (WHEREUPON, Plaintiff's Exhibit-358 was
3 previously marked for identification.)

4 MS. COHEN: And here is a copy for
5 counsel.

6 MR. BELINFANTE: Thank you.

7 BY MS. COHEN:

8 Q Commissioner, I will represent to you that
9 Exhibit 358 is --

10 (Discussion ensued off the record.)

11 BY MS. COHEN:

12 Q 358 is titled "Apex 3.0 Frequently Asked
13 Questions," and it was downloaded from the Georgia
14 Department of Behavioral Health and Developmental
15 Disabilities site in July of 2022.

16 Are you familiar with these questions?

17 A I'm familiar with the fact that we have an
18 FAQ on our website, as we do for many of our service
19 areas.

20 Q When did you last refer to it?

21 A I can't tell you the last time I looked at
22 this. Not any time recently.

23 Q Now, I'm looking at the second page, two
24 out of three. Do you see that?

25 A Uh-hum. (Affirmative.)

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1 Q The question is: "What is the Apex
2 model?"

3 A Uh-hum. (Affirmative.)

4 Q And it says: "The Apex model is a
5 multi-tiered system -- "service delivery model"?

6 A Uh-hum. (Affirmative.)

7 Q Does that refresh your recollection that
8 Apex is a multitiered system model?

9 A Yes.

10 Q And "providers embed into schools and
11 implement services across all three tiers"?

12 A Yes.

13 Q Does that refresh your recollection that
14 it is a program that requires participation across
15 three tiers?

16 A Yes. I think when you asked this question
17 previously, this is not at all what I thought you
18 were referencing.

19 Q So we had a miscommunication?

20 A Yeah. My apologies. Yeah.

21 Q Then the question below is: "In which
22 types of schools can Apex be implemented?"

23 And the answer is on Page 3. Do you see
24 that?

25 A Yes.

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1 Q And it says: "Apex therapists/clinicians
2 and behavioral health support staff are embedded
3 within public schools and public charter schools,
4 pre-kindergarten to 12th grade."

5 Is that correct?

6 A Yes.

7 Q And "they also help with life skills
8 development and other non-therapeutic activities,"
9 correct?

10 A Yes.

11 Q And then it says, "Apex services cannot be
12 provided in private charter schools, GNETS
13 standalone facilities, private schools, or
14 homeschooled/cyber public schools."

15 Do you see that?

16 A I do.

17 Q And what is the reason for this policy of
18 exclusion of GNETS standalone facilities?

19 A In general, I would say that at a GNETS
20 standalone facility it's my understanding that those
21 students have already been identified as in need of
22 supports and services, maybe at a certain level of
23 intensity.

24 One of the goals of Apex has always been
25 early identification of youth who were not

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1 previously identified, and so it would be my
2 understanding that all the youth at GNETS are
3 already identified and have some connection to
4 services.

5 Q What would -- is that something you know
6 or are you speculating, Commissioner?

7 A I'm speculating at the moment about why we
8 would have limitations on capacity and prioritize
9 other public schools.

10 Q Because you wouldn't adopt a policy just
11 based on speculation, correct?

12 A Correct.

13 Q So did you make any inquiry of your staff
14 to determine why this policy is in effect?

15 A I did not.

16 Q Did you participate in any discussions
17 with your staff about this policy?

18 A Not that I recall.

19 Q Do you know what the diagnostic criteria
20 are for entry into GNETS?

21 A I do not.

22 Q Have you heard discussion that OCYF
23 believed that a GNETS standalone facility could not
24 form an effective partnership with Apex?

25 A I have not heard that.

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1 Q Have you heard that individuals at DBHDD
2 believed that there were issues about having
3 behavioral health team embedded in the school?

4 A I'm not sure what you mean by that.

5 Q Well, it's a feature of the Apex
6 partnership that the participating school provide an
7 office space --

8 A Yes.

9 Q -- and clinicians to administer services
10 on the school site?

11 A Yes.

12 Q So when I use the term "embedded," that's
13 what I'm referring to.

14 Did you ever learn of any unwillingness or
15 hear a discussion -- did you ever hear anyone talk
16 about unwillingness of the GNETS programs to have
17 providers embed within the schools?

18 A I have no knowledge of that.

19 Q Did you ever hear that providers were
20 reluctant to embed in GNETS facilities?

21 A I did not hear that.

22 Q Are you familiar with the GNETS rule, the
23 GNETS regulations promulgated by the Department of
24 Education?

25 A No.

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1 Q Has your department promulgated any
2 regulations with regard to school-based mental
3 health services?

4 A I don't -- not to my knowledge. I don't
5 believe we've promulgated any regulations.

6 MS. COHEN: Let's take a break.

7 THE VIDEOGRAPHER: Off the record at 4:15
8 p.m.

9 (A recess was taken.)

10 THE VIDEOGRAPHER: Back on the record at
11 4:34 p.m.

12 BY MS. COHEN:

13 Q So I want to direct your attention to the
14 discussion of the three-tier Apex model?

15 A Uh-hum. (Affirmative.)

16 Q I think when I asked you previously about
17 positive behavior supports, or positive behavior
18 intervention and supports, that is a three-tier
19 model, right?

20 A That I can't speak to.

21 Q You don't know?

22 A No.

23 Q Don't know either way?

24 A I'm not on PBIS, no.

25 Q And -- but Apex is a three-tiered service

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1 delivery model --

2 A Yes.

3 Q -- is that right?

4 A Yes.

5 Q And what is Tier I?

6 A Tier I are the things that the Apex
7 provider would do that benefit the entire school.
8 So preventive activities, sort of the mental health
9 awareness raising or mental health fair they might
10 have at a school, family meetings, parent/teacher.

11 Q And what is Tier II?

12 A As you see the language here, targeted
13 interventions where students who are identified as
14 at risk receive intervention and contact with mental
15 health professionals.

16 Q And then what is Tier III?

17 A That's the most intensive level of
18 intervention for students who are identified with
19 more serious needs.

20 Q And what are the interventions that are
21 provided in Tier III?

22 A Depending on what the youth needs are, but
23 they could be crisis intervention, individual
24 therapy. If warranted, might be -- might involve
25 family therapy or other clinical direct services.

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1 Q Has your department started a program for
2 wraparound services?

3 A We contract with providers.

4 I referenced this area earlier, care
5 management, CMEs, care management entities, who
6 provide specialized wraparound services in a
7 fidelity-based model.

8 Q When you say in a fidelity-based model,
9 that's based on evidence-based practices?

10 A Yes. And you have to --

11 Q And previously -- the subject of trials?

12 A Yes. There's rigor to the delivery.

13 So, for example, anyone could provide
14 something and call it wraparound services, but
15 high-fidelity wraparound explicitly means you are
16 following the evidence-based model as it was
17 intended.

18 Q And that's what DBHDD contracts for?

19 A Yes.

20 Q Do you know if GNETS provides
21 high-fidelity wraparound services to its students?

22 A I don't have any idea.

23 Q What does the high-fidelity wraparound
24 include?

25 MR. BELINFANTE: Object to the form.

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1 A So I have some knowledge of the program,
2 but essentially it's intensive engagement with the
3 family to design a team approach to a plan of care
4 for youth that has mental -- behavioral and
5 emotional difficulties.

6 So it involves gathering all the people
7 involved in the young person's life and following a
8 plan of care that the family decides together with
9 the care coordinator.

10 Q Is one of the goals of wraparound services
11 prevention of having to put the individual in a
12 Psychiatric Residential Treatment Facility?

13 MR. BELINFANTE: Object to the form.

14 A I think it's important to say the goal is
15 to, as best as possible, to provide that youth with
16 the most appropriate level of care.

17 So it is intended to be a community-based
18 service delivery.

19 Q When you say community based, you're
20 talking about not in a Psychiatric Residential
21 Treatment Facility, which is generally viewed as
22 removing the individual from his community?

23 A Yes.

24 Q And is another goal of the wraparound
25 service to shorten stays in highly restrictive

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1 facilities?

2 MR. BELINFANTE: Object to the form.

3 A So in some cases the high-fidelity
4 wraparound team receives the youth as they're
5 discharging from one of those facilities, but it's
6 important that the discharge planning -- that the
7 course of treatment in that setting is achieved and
8 as best as possible the discharge planning moves
9 toward readiness for the community-based service
10 delivery system.

11 Q My question was, is it another goal of the
12 wraparound service to shorten stays in highly
13 restrict -- in Psychiatric Residential Treatment
14 Facilities?

15 MR. BELINFANTE: Object to the form.

16 A That's a goal.

17 Q And with regard to the GNETS program,
18 Commissioner, are you able to say based on your
19 knowledge whether it is a highly restrictive
20 setting?

21 A I don't have knowledge of that.

22 Q Can you say whether or not it's more
23 highly restrictive as a setting than any of the
24 settings that are provided in the Apex program?

25 A I can't say that for sure.

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1 Q Do you have any information that's
2 pertinent to that question?

3 MR. BELINFANTE: Object to the form.

4 A I don't.

5 Q Have you ever inquired?

6 A No.

7 Q Is that because you don't think it's your
8 obligation to explore what settings are provided and
9 services are provided to GNETS students?

10 A That's out of the purview of DBHDD, yes.

11 Q Are you aware of any efforts by your
12 agency, DBHDD, to divert children from GNETS by
13 providing school-based mental health services in
14 general education settings?

15 A When --

16 MR. BELINFANTE: Object to the form.

17 You can answer.

18 A When DBHDD is providing services to
19 identify youth, it's in an effort to meet their
20 individualized needs in the best way that we can.

21 Q And is one of the goals to keep the youth
22 out of highly restrictive settings?

23 A If that's possible.

24 Q And is it one of the goals to divert
25 children from GNETS?

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1 A I haven't described it explicitly as that,
2 but it is true that the value of a System of Care is
3 to provide services in the least restrictive
4 setting.

5 So we certainly are aligned with that
6 value.

7 Q You are aware that the United States has
8 deposed other DBHDD employees in this matter?

9 A Yes.

10 Q And have you reviewed any of the
11 transcripts from them?

12 A I have not.

13 Q Have you reviewed any of the documents
14 marked as exhibits?

15 A I -- not recently.

16 Q What do you mean not recently? Ever?

17 A So you're showing me things I've seen
18 before, but I have not seen them in recent years.

19 Q Got it.

20 MS. COHEN: I'm going to mark as the next
21 exhibit -- is it 371?

22 THE COURT REPORTER: Yes.

23 MS. COHEN: 371, a copy of the Georgia
24 Uniform Application, Fiscal Year 2021 Community
25 Mental Health Services Block Grant Plan.

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1 And it has the -- this is something that
2 we have downloaded from the SAMHSA website, and
3 we have given it the Production Nos. R0003371
4 to R0003663.

5 (WHEREUPON, Plaintiff's Exhibit-371 was
6 marked for identification.)

7 MS. COHEN: Josh, here's a copy for you.

8 MR. BELINFANTE: Thank you.

9 MS. COHEN: And here's a copy for the
10 Commissioner.

11 BY MS. COHEN:

12 Q Are you familiar with this document,
13 Commissioner?

14 A Yes.

15 Q What is it?

16 A As a recipient of the block grant, DBHDD
17 has to comply with the rules of the block grant, and
18 that requires us to spell out in extensive detail
19 about how -- essentially how the portions of our
20 service delivery system that are funded by the block
21 grant are carried out.

22 Q Are there also references to aspects of
23 the service delivery that are not funded by the
24 block grant?

25 A There may be. Just in describing the

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1 totality of what we do.

2 Q Before we get into this Exhibit 371, you
3 can put it aside for a second. I want to look at
4 something else with you.

5 MS. COHEN: We'll mark as Exhibit 372 a
6 document Bates-stamped with the numbers
7 GA00056438.

8 (WHEREUPON, Plaintiff's Exhibit-372 was
9 marked for identification.)

10 MS. COHEN: Here is a copy for counsel.
11 BY MS. COHEN:

12 Q This is a document on the letterhead of
13 DBHDD. I'll ask if you can identify for us,
14 Commissioner, and we'll mark it as 372.

15 Can you identify this for us,
16 Commissioner?

17 A Yes. This is a document produced by DBHDD
18 that is a summary of the continuum of services
19 supported by DBHDD.

20 Q What purpose is it provided for?

21 A It is a depiction of what people often
22 experience as a complex system. So this was an
23 effort to depict what it means to deliver service
24 across the continuum in this bell curve, to
25 describe, as you see, provide clear definitions of

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1 our acronyms.

2 And then on the second page to describe
3 the structure of the network, and then finally
4 describing importantly how insurance status drives
5 accessibility to care in Georgia.

6 Q Is this the behavioral health map that you
7 mentioned?

8 A Yep.

9 Q Okay. Let me see if I can understand this
10 then.

11 I start with the centered paragraph at the
12 top of the document.

13 A Uh-hum. (Affirmative.)

14 Q "The focus of DBHDD's Office of Children,
15 Young Adults, and Families (OCYF) is to support
16 Georgia's System of Care for uninsured children and
17 young adults, or those with SSI Medicaid, and their
18 families, that are accessing the public behavioral
19 health system."

20 A Yes.

21 Q OCYF actually, as we discussed earlier,
22 provides insurance or coverage to uninsured children
23 and young adults or those with SSI Medicaid,
24 correct?

25 A Yes.

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1 MR. BELINFANTE: Object to the form.

2 Q But its responsibility in connection with
3 public behavioral health services is broader?

4 MR. BELINFANTE: Object to the form.

5 A I'm not sure I understood the distinction
6 about what you were saying. I'm sorry.

7 Q DBHDD not only provides insurance for
8 certain categories of individuals, but it also
9 determines what services will be provided through
10 the broader behavioral -- public behavioral health
11 system?

12 A So to your former point, we do not provide
13 insurance.

14 Q I'm sorry. Okay. Let me rephrase the
15 question.

16 A Yeah, okay.

17 Q DBHDD provides services?

18 A Contracts with provider to make services
19 available.

20 Q DBHDD -- thank you. I'm learning. I'll
21 keep working on it.

22 A You're good.

23 Q DBHDD contracts with providers to provide
24 behavioral health services to uninsured children and
25 young adults and those with SSI Medicaid?

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1 A Yes.

2 Q DBHDD is responsible for selecting the
3 broader array of behavioral health services that are
4 provided under the State Medicaid plan?

5 A As a behavioral health authority, we
6 provide expertise, which is taken into account in
7 the provision of -- in the design of the array of
8 services that are available.

9 Q And you do it in concert with other
10 agencies?

11 A DCH in particular, who's guided by Centers
12 for Medicaid and Medicare Services.

13 Q But ultimately DBHDD has the final word?

14 A Not exactly.

15 Q No?

16 A We're the authority. We have the
17 expertise. We make a recommendation but, for
18 example, we can't pick an idea out of the air, say
19 we think this is good, it should be delivered, if
20 ultimately it was not acceptable to CMS.

21 Q I think your previous testimony on the
22 subject is clear and I don't want to muddy the
23 waters at this point.

24 A Okay.

25 Q Let's go back to that paragraph.

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1 A Uh-hum.

2 Q It says: "We accomplish this," that is
3 supporting Georgia's System of Care, "through the
4 development non-traditional treatment and supports
5 for youth and families that support the traditional
6 array of services available through Medicaid."

7 What is, what is the development of
8 nontraditional treatment?

9 A So I think in our language here we're
10 describing any service that's outside of Medicaid
11 billable service.

12 Q Can you give me some examples?

13 A A clubhouse for youth, which we fund a
14 nontraditional service called the Youth Clubhouse,
15 which is for eligible youth, and it's a
16 community-based program that provides recreation,
17 support, and therapeutic services in a clubhouse,
18 literally, figuratively.

19 A space that is a clubhouse where teens
20 would want to hang out. I would consider that a
21 nontraditional service.

22 Q Are all of the services shown on this
23 diagram on 372, on the first page, nontraditional
24 services?

25 A No.

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1 Q Which are the nontraditional services?

2 A You see something here called Community
3 Innovation Pilots. Those would be examples of a
4 program or idea that we may have some pilot funding
5 for, that we're testing out to see if it works in a
6 given environment or setting.

7 So that would be an example I think of
8 nontraditional.

9 Q Are there any other nontraditional
10 services shown in the diagram?

11 A None other that I identify right at this
12 moment.

13 Q Is this the entire continuum of behavioral
14 health services provided?

15 A By DBHDD?

16 Q And DCH.

17 A I can only speak to DBHDD's, that this is
18 DBHDD's continuum of services.

19 Q And is GNETS on this continuum?

20 A I don't see it here.

21 Q Does this continuum depict the System of
22 Care?

23 A Again, System of Care is an approach to
24 service delivery, not a program itself.

25 Q Does this diagram depict programs that are

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1 within the System of Care?

2 A Some of these programs, yes, would be
3 considered part of a continuum that is part of
4 Georgia's System of Care.

5 Q And is the continuum a spectrum from
6 prevention and early screening through late
7 intervention?

8 A Yes.

9 Q And what is the bottom bar, which says,
10 "Mobile Crisis Core Benefit Package, Center of
11 Excellence, and trainings"?

12 A I think that's meant to indicate that
13 we've tried to delineate what category of
14 intervention across -- so prescreening, early
15 intervention, intervention, late intervention.

16 Mobile Crisis might cover anyone in the
17 spectrum. You don't have to qualify. It might be
18 the first time someone engages in our system is
19 through a Mobile Crisis call.

20 So, obviously, Center of Excellence
21 involvement, they evaluate programs across this
22 spectrum. So that's what I interpret that to mean.

23 Q And what is the vertical axis?

24 A The distinction between the phases of
25 intervention.

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1 Q I'm not sure I understand that. So Apex
2 provides early intervention and late intervention --
3 and other intervention?

4 A The Apex, right, is considered both early
5 intervention. For some youth that might be the
6 first detection of a program. Then it's also
7 considered intervention because there are some youth
8 who receive ongoing services at a higher level of
9 need that would -- therefore, it's crossing both
10 early intervention and intervention.

11 Q So this looks like the continuum that's on
12 the horizontal axis. I see up arrows and down
13 arrows on vertical lines. What do those reference?

14 A I'm sorry, say it again. Which arrows are
15 you referencing here?

16 Q I'm referring to arrows with the vertical
17 dotted lines. What do those axes refer to?

18 A I'm sorry. So vertical axes are dividing
19 between the phases of intervention.

20 Horizontal are dividing between the volume
21 of youth impacted.

22 Q I see. So LIPT is the highest on the
23 curve, and that would mean that LIPT, local
24 intervention --

25 A Interagency.

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1 Q -- interagency prevention team?

2 A Planning.

3 Q Planning.

4 Local interagency planning teams are the
5 highest on the chart. So does that mean they serve
6 the largest population?

7 A Actually, the core benefit package, I
8 think which is our basic intervention package, it's
9 across the spectrum, but the majority of services
10 delivered through the core benefit package --

11 Q Flow through LIPT --

12 A -- would be -- yeah, would be -- no, they
13 don't flow through LIPT. That would be the highest
14 volume of service that we deliver, is through the
15 core package.

16 Q And how is that represented on the chart?

17 A I think it's -- as you see, core is
18 delivered in each one. There's screening in core,
19 there's early intervention in core. There's
20 intervention in core. And --

21 Q I see. So that's the top of the curve?

22 A Yes, essentially. I'm sorry, yeah, you're
23 right. That's not fully depicted there but core
24 services are the greatest volume of services
25 delivered.

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1 Q Understood.

2 And when does this date from?

3 A I couldn't tell you. I just think it's
4 not current.

5 Q What is the SOC EASS refer to?

6 A Where are you looking?

7 Q I'm looking in the second --

8 A Yeah, okay. Early adult, emerging
9 adult -- sorry. Emerging adult support services.

10 So looks like that's the term that's being
11 used here for the 16- to 26-year-old population. So
12 some versions of children services across the
13 country.

14 Technically it goes up to 18, but the
15 category of youth 18 to 26 are called emerging
16 adults, and they're treated in some ways different
17 than the adult population. So there's some
18 allowance there.

19 Q So what is the reference to SOC there
20 above --

21 A Yeah --

22 Q -- early -- emerging adult support
23 services?

24 A I don't know whether there's a specific
25 designation, that they're a System of Care early --

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1 emerging adult support services. I'm not quite sure
2 about the connection of those two acronyms there.

3 Q Was this prepared before the expiration of
4 the CBAY waiver?

5 A This document?

6 Q Yes.

7 A I can't tie the date of this. It's been
8 around for a while and there have been different
9 iterations. So I can't mark when was the first
10 iteration of this.

11 Q What is the CBAY waiver?

12 A So CBAY was a federal waiver program,
13 community-based alternatives for youth. It was a
14 five-year demonstration waiver that essentially
15 sunsetted in the State, and from that was birthed --
16 the high-fidelity wraparound was an element of the
17 CBAY waiver.

18 High-fidelity wraparound has stuck around
19 as part of now an entity called Care Management
20 Entities.

21 Q And what are the elements that went away
22 with the expiration of the CBAY waiver?

23 A I think just funding through the
24 demonstration waiver structure, as happens for
25 demonstration waivers. They have a time limited

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1 period and the Feds determine whether or not the
2 waiver itself will continue.

3 Q Did DBHDD apply for an extension of that
4 waiver?

5 A I don't recall.

6 Q How successful was that program with
7 providers?

8 A I don't know about with providers. I know
9 there were elements of the program that were deemed
10 helpful.

11 Q What were those?

12 A High-fidelity wraparound and utilization
13 of the care management entities for youth with high
14 intensity needs and their families who agreed to
15 participate in high-fidelity wrap activities.

16 Q Let's go back to 371.

17 Is this the most recent application for
18 the Community Mental Health Services Block Grant
19 that the department has submitted?

20 A I'm not sure. I think not, since this one
21 says it expires on April 30th of 2022.

22 Q Is there a new one?

23 A I can't say definitively. But I would
24 expect that there is but year over year they look
25 similar. So...

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1 MS. COHEN: We'd like to request that the
2 department and the State produce a copy of
3 that.

4 MR. BELINFANTE: If you all will just
5 email these so I can keep them straight. I
6 believe we've already covered that.

7 MS. COHEN: Understood.

8 BY MS. COHEN:

9 Q How much money is provided to the
10 department annually under the Community Mental
11 Health Services Block Grant?

12 A I don't know.

13 Q Is it more than \$70 million for children
14 and adolescent services?

15 A I'm not sure.

16 Q Are you the principal contact for this
17 grant?

18 A No. I'm signator but -- you mean in
19 practical terms?

20 Q I mean in any sense, are you the principal
21 contact for this block grant?

22 A I'm signator but we have an appointed
23 individual who is -- who oversees our federal grants
24 and programs.

25 Q My question relates to whether or not you,

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1 Commissioner, are the contact person for this block
2 grant?

3 MR. BELINFANTE: Object to the form.

4 A Yes.

5 Q And it says that clear on Page 1 of 293, I
6 think the second page of Exhibit 371 that I've
7 handed you, that you are the contact person?

8 A Okay.

9 Q And as the contact person you review this
10 for accuracy before it's submitted?

11 A Yes.

12 Q And if we look through here to the page
13 that's Bates-stamped R0003381, do you see that?

14 A Yes.

15 Q What is this?

16 A The State is required to have a letter
17 from the Governor's Office delegating the authority
18 for the block grant to DBHDD.

19 Q So DBHDD, pursuant to this delegation
20 that's on page R0003381, dated August 19, 2019, was
21 delegated -- was identified as the single state
22 authority for community mental health. Is that
23 correct?

24 A Yes.

25 Q And this has been a designation that has

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1 remained in force for as long as you have been
2 Commissioner?

3 A Yes.

4 Q And you actually signed this on R0003387?

5 A Yes.

6 Q Now, the first section on Page 21 of 293,
7 do you have that?

8 A I do.

9 Q And I'm going back and forth between the R
10 number and the page number out of 293, depending on
11 which is most legible.

12 A Okay.

13 Q This presents the State Overview?

14 A Okay.

15 Q And this really presents the Behavioral
16 Health Division as it exists under your tenure for
17 the period of time referenced in the grant?

18 A Yes.

19 Q Does it indicate anywhere in this grant
20 that the services provided by the Department of
21 Behavioral Health are limited to certain
22 individuals?

23 A In that first paragraph, the final
24 sentence is an expression of our primary
25 responsibility to serve individuals who are

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1 uninsured, as well as individuals receiving
2 Medicaid.

3 Q That is your primary contracting
4 responsibility, right?

5 A Yes.

6 Q But you are also the single state
7 authority for the determination of what services,
8 behavioral health services, should be provided?

9 A Yes. Although we are not the -- again,
10 we're the experts who make recommendations as to
11 what should be in the array of services provided.

12 Q It says on Page 31 of 293, under DBHDD
13 Community Providers: "DBHDD is responsible for
14 delivery of services for adults and youth with
15 mental illness, et cetera" and "children with
16 serious emotional disturbances."

17 You don't mention any exclusions from that
18 responsibility, do you?

19 MR. BELINFANTE: Sorry, where are you on
20 31?

21 MS. COHEN: I'm on Page 31 of 293, the
22 third full paragraph, titled, "DBHDD Community
23 Providers," the first sentence.

24 MR. BELINFANTE: Okay. Thank you.

25 A Yes. So I see here in this description it

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1 does not attach the other description about our
2 priority population, but --

3 Q Let me ask you this, Commissioner on --

4 MR. BELINFANTE: Are you finished? Did
5 you have --

6 Q -- Page 120 --

7 MR. BELINFANTE: Did you need to finish,
8 Commissioner?

9 A The allocation of our resources is
10 directed towards individuals who are uninsured and
11 receiving Medicaid.

12 Q Now, is GNETS described in this
13 application?

14 A Not that I recall, but it's a lengthy
15 document, so I don't remember every element of it.

16 Q Take a look.

17 (witness reviews exhibit.)

18 Q Let me direct your attention to Page 118
19 -- 119.

20 A 119.

21 Q As far as I can tell, Commissioner, I'll
22 inform you, the only mention of GNETS is at Pages
23 118 to 119?

24 A Thank for you that direction.

25 Q I wasn't quizzing you. I actually had

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1 lost my page number. But --

2 A That would have been impressive if I told
3 you it was on Page 118.

4 Q And so the discussion on Page 118 to 119,
5 a description of GNETS falls under Criterion III:
6 Children's Services: System of Integrated
7 Services."

8 A Uh-hum.

9 Q Do you see that?

10 A I do.

11 Q And in this section DBHDD describes a
12 coordinated System of Care for children and youth
13 with serious emotional disturbances.

14 Is that correct?

15 A I'm sorry, repeat -- repeat again what
16 you're asking me.

17 Q Sure. In this section, response to
18 Criterion III, which starts on Page 116, DBHDD
19 describes a coordinated System of Care for children
20 and youth with serious emotional disturbances.

21 A It seems like you're reading from
22 somewhere, and in that same Criterion III, the first
23 sentence says "Georgia does not have one agency
24 responsible for all children's services."

25 Q Do you see that there's a description of

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1 "eight state agencies responsible for service"?

2 A Yes.

3 Q And that "all agencies must work together

4 to provide a system of care" --

5 A Yes.

6 Q -- "for children and youth with SED"?

7 A Yes.

8 Q And the -- at the end of the carryover

9 paragraph, on Page 117, it says: "The services

10 provided by the primary child-serving agencies are

11 discussed below."

12 Do you see that?

13 A Yes.

14 Q And then there's a discussion of the role

15 of the Department of Education on 118?

16 A Okay.

17 Q And the discussion of GNETS begins on Page

18 119. Do you see that?

19 A Yes.

20 Q Supporting the -- and it says, and I

21 quote, on Page 119: Supporting the 186 school

22 systems in Georgia, the Georgia Network for

23 Education and Therapeutic Support provides

24 comprehensive special education and therapeutic

25 support for the children involved."

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1 Do you see that?

2 A I do.

3 Q And "the purpose of the GNETS is to
4 prevent children from requiring residential or other
5 more restrictive placements by offering
6 comprehensive services in local areas."

7 Do you see that?

8 A I do.

9 Q And there's a discussion of the purpose of
10 GNETS.

11 Did you verify this information?

12 A Not personally.

13 Q Did anyone verify it?

14 A I rely on my team to -- I think in each
15 one of these sections we are reliant on our partner
16 agencies to describe their work and --

17 Q But just to be --

18 A -- assure that it's accurate.

19 Q But just to be clear, GNETS is not part of
20 any comprehensive system of care?

21 MR. BELINFANTE: Object to the form.

22 A That's your statement --

23 Q Yeah.

24 A -- or...

25 Q I'm not asking you based on the document.

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1 I'm just asking you --

2 A Oh, I'm sorry, I didn't realize there was
3 a question on the table. What is the question?

4 Q The question is, GNETS is not part of any
5 coordinated system of care?

6 MR. BELINFANTE: Object to the form.

7 A I'm not in a position to say what DOE's
8 implementation of a GNETS program.

9 Q You don't know?

10 A I do not.

11 Q Okay. And then let's just make reference
12 to Pages 280 of 293, and the following pages. This
13 is what I think you referred to earlier as the
14 Georgia Behavioral Health Planning & Advisory
15 Council attestation of -- that it acts as it needs
16 to for SAMHSA requirements?

17 A Let me take a moment what I'm looking at
18 here.

19 (Witness reviews exhibit.)

20 A Okay. I see. So these are minutes from a
21 meeting of the Georgia Behavioral Health Planning &
22 Advisory Council.

23 Q And that's the council I think we started
24 with earlier in the day, correct?

25 A Yes.

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1 Q And you mentioned that it was a
2 requirement of SAMHSA that there be such an entity?

3 A Yes.

4 (Discussion ensued off the record.)

5 MS. COHEN: I'm going to ask the court
6 reporter to mark as the next exhibit.

7 Is this 373?

8 THE COURT REPORTER: Yes.

9 MS. COHEN: The Georgia System of Care
10 State Plan for 2020, and it has the numbers
11 GA04312718 to 38.

12 (WHEREUPON, Plaintiff's Exhibit-373 was
13 marked for identification.)

14 BY MS. COHEN:

15 Q Are you familiar with this document?

16 A I am.

17 Q What is this?

18 A It's in -- Josh, you're giving Josh a
19 copy, too?

20 MS. COHEN: I'm sorry, Josh. Low on
21 copies.

22 MR. BELINFANTE: Thank you.

23 A The State is required to develop a system
24 of care plan for the State, and this is a draft of
25 the 2020 plan.

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1 Q Did a system of care plan issue?

2 A Let me check my dates here. I believe it
3 did.

4 Q I asked you earlier whether you were
5 familiar with the statutory reference to Section
6 49-5-220. I see it on the first page here.

7 Does that refresh your recollection about
8 the State statute that refers to the promulgation of
9 a System of Care State Plan?

10 A Yes.

11 Q And this is on the letterhead of the
12 Center for Excellence, correct?

13 A Yes.

14 Q But it is in fact a DBHDD document?

15 A It's a system of care document.

16 Q A system of care document.

17 And is the GNETS program described in
18 here?

19 A I don't believe so.

20 Q Does this otherwise -- does this -- has
21 this draft been finalized?

22 A I believe that it has.

23 Q Has there been one issued for 2022?

24 A I think that it's -- I think this covers
25 the period of 2020 to 2023. I'll have to check my

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1 dates on that, though.

2 Q As far as you know, this is the document
3 that governs --

4 A This is --

5 Q -- this period?

6 A Yeah, this is -- the one I'm most familiar
7 with.

8 Q Do you know why it has a draft watermark
9 on the first page?

10 A I see it has the draft watermark
11 throughout. We'll have to double-check.

12 MS. COHEN: We'd just ask for the final.

13 And then I'm going mark as Exhibit 373 --
14 374 a document that is titled on the first page
15 "Georgia Apex Program Evaluation Results, July
16 2019-June 2020."

17 It has the stamps GA04896745 to 764.

18 And here is a copy for counsel.

19 (WHEREUPON, Plaintiff's Exhibit-374 was
20 marked for identification.)

21 BY MS. COHEN:

22 Q Can you identify this document,
23 Commissioner?

24 A This looks like a PowerPoint presentation
25 of a report of the annual evaluation. I actually

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1 have not seen this PowerPoint presentation but I
2 have seen a summary evaluation. I don't believe
3 I've seen this PowerPoint before, though.

4 Q Is this the most recent report?

5 A I believe this is -- let me get my dates
6 right.

7 I think this is a Year 6 report and we are
8 awaiting Year 7's report, which is imminent, but I
9 haven't seen the draft yet but I understand it's
10 being produced.

11 Q And as far as you know --

12 A Actually, this is Year 5 as I'm seeing
13 this.

14 Q The program is in Year 7. Are you waiting
15 for a Year 6 report?

16 A We're awaiting -- maybe it's a -- I have
17 Year 6 data is the last data that I have.

18 Q Thank you.

19 A So that's why --

20 Q Is one of these produced every year?

21 A An annual report is produced, this
22 PowerPoint format. I don't know who this was
23 presented to in April.

24 Q Is this public information?

25 A Yes.

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1 Q And is there one prepared for every year?

2 A There's a report prepared but I -- I'm
3 saying this format. I don't know there's been a
4 PowerPoint version of it.

5 Q I see.

6 A That's all I'm referencing.

7 Q Got it.

8 Do you know if there's a PowerPoint every
9 year?

10 A This is the first one that I've seen with
11 this level of comprehensive information. Again, I
12 don't know who the audience was here, though.

13 It doesn't seem to indicate on there.

14 Q And are these available on the Center of
15 Excellence website to the general public?

16 A If they're on the website, they are -- is
17 that where you got this one? As I said, I haven't
18 seen this one.

19 I know their website is very
20 user-friendly.

21 Q No. I got this one from the State's
22 production.

23 A Okay.

24 Q But that's where you go to see
25 information?

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1 A That's where I would go. Yes.

2 MS. COHEN: All right. Why don't we take
3 a short break and hopefully we can wrap this
4 up.

5 THE VIDEOGRAPHER: Off the record at 5:32
6 p.m.

7 (A recess was taken.)

8 THE VIDEOGRAPHER: We're back on the
9 record at 5:47 p.m.

10 BY MS. COHEN:

11 Q I just want to correct a couple of things.
12 First of all, Commissioner, I see that it
13 was 2016, not 2015 that you were appointed, and I
14 apologize.

15 A That's okay. Glad we corrected the
16 record.

17 Q And then I have received information from
18 my office that what we have marked as Exhibit 374 --
19 373, excuse me, was previously marked as Exhibit
20 150, and I'm going to ask Wanda to sticker it.

21 (WHEREUPON, Plaintiff's Exhibit-150 was
22 previously marked for identification.)

23 MS. COHEN: Subject to any
24 cross-examination, I have nothing further.

25 MR. BELINFANTE: I have no cross.

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1 THE VIDEOGRAPHER: We're off the record at
2 5:48 p.m.
3 (Whereupon, the deposition concluded at
4 5:48 p.m.)

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1 C E R T I F I C A T E

2

3 STATE OF GEORGIA:

4 FULTON COUNTY:

5

6 I hereby certify that the foregoing

7 transcript of JUDITH ANN FITZGERALD was taken down,

8 as stated in the caption, and the questions and

9 answers thereto were reduced by stenographic means

10 under my direction;

11 That the foregoing Pages 1 through

12 242 represent a true and correct transcript of

13 the evidence given upon said hearing;

14 And I further certify that I am not of kin

15 or counsel to the parties in this case; am not in

16 the regular employ of counsel for any of said

17 parties; nor am I in anywise interested in the

18 result of said case.

19

20 IN WITNESS WHEREOF, I have hereunto

21 subscribed my name this 22nd day of August, 2022.

22 *Wanda L. Robinson*

23

24 _____

25 Wanda L. Robinson, CRR, CCR No. B-1973
My Commission Expires 10/11/2023

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1 D I S C L O S U R E

2 STATE OF GEORGIA) VIDEOTAPE DEPOSITION OF
3 FULTON COUNTY) JUDITH ANN FITZGERALD - 8/16/22
Pursuant to Article 10.B of the Rules and
4 Regulations of the Board of Court Reporting
5 of the Judicial Council of Georgia, I make the
6 following disclosure:

7 I am a Georgia certified court reporter.

8 I am here as a representative of Esquire Deposition
9 Solutions, LLC, and Esquire Deposition Solutions,
10 LLC was contacted by the offices of U.S. Attorney's
11 Office to provide court reporter services for this
12 deposition. Esquire Deposition Solutions, LLC will
13 not be taking this deposition under any contract
14 that is prohibited by O.C.G.A. 9-11-28 (c).

15 Esquire Deposition Solutions, LLC has no
16 contract/agreement to provide court reporter
17 services with any party to the case, or any counsel
18 in the case, or any reporter or reporting agency
19 from whom a referral might have been made to cover
20 this deposition.

21 Esquire Deposition Solutions, LLC will
22 charge the usual and customary rates to all parties
23 in the case, and a financial discount will not be
24 given to any party to this litigation.

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1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Deponent Name: JUDITH ANN FITZGERALD

3 Case Caption: United States of America vs. State
4 of Georgia

5 Case No. : 1:16-cv-03088-ELR

6 I do hereby certify that I have read all
7 questions propounded to me and all answers given by
me on the 16th day of August 2022, taken before
Wanda L. Robinson, and that:

8

9 1) There are no changes noted.

10 2) The following changes are noted:

11 Pursuant to state rules of Civil Procedure
12 and/or the Official Code of Georgia Annotated
9-11-30(e), both of which read in part: Any changes
13 in form or substance which you desire to make shall
be entered upon the deposition with a statement of
the reason given for making them.

14 Accordingly, to assist you in effecting
corrections, please use the form below:

15

16 CORRECTIONS:

17

18 Page Line Change Reason For Change

19

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21

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1 CERTIFICATE OF DEPONENT

2

3 I hereby certify that I have read and examined

4 the foregoing transcript, and the same is a true and

5 accurate record of the testimony given by me. Any

6 additions or corrections that I feel are necessary,

7 I will attach on a separate sheet of paper to the

8 original transcript.

9

10 _____

11 Signature of Deponent

12

13 I hereby certify that the individual

14 representing himself/herself to be the above-named

15 individual, appeared before me this _____ day of

16 _____, 2022, and executed the above

17 certificate in my presence.

18

19 _____

20

21 NOTARY PUBLIC

22

23 MY COMMISSION EXPIRES:

24

25